HOUSE DOCKET, NO. 1117 FILED ON: 1/18/2023

HOUSE . . . . . No. 247

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce J. Ayers

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regulating body art.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Bruce J. Ayers	*1st Norfolk*	*1/18/2023*

HOUSE DOCKET, NO. 1117 FILED ON: 1/18/2023

HOUSE . . . . . No. 247

By Representative Ayers of Quincy, a petition (accompanied by bill, House, No. 247) of Bruce J. Ayers for legislation to prohibit the practice of body piercing, so-called, unless licensed by the Department of Public Health. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *308* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act regulating body art.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 111N the following chapter:-

111O. Regulation of Body Art

Section 1. As used in this chapter, the following words shall have the following meanings:

"Aftercare instructions", written instructions, approved by the department, given to a person upon whom body art has been performed, specific to the body art procedure rendered or performed, concerning the proper care to be given to the area of the body upon which the body art has been performed and concerning the surrounding area of the body.

10 "Antiseptic", an agent that destroys disease-causing microorganisms on human skin or
11 mucosa.

12 "Apprentice License", license authorized by the department to a person qualified to enter
13 the body art practitioner license apprenticeship program.

14 "Autoclave", an apparatus for sterilization utilizing steam pressure at specific temperature
15 over a designated period of time.

16 "Autoclaving", the process that results in the destruction of all forms of microbial life,
17 including highly resistant bacterial spores, by the use of an autoclave for a minimum of 30
18 minutes at 17 pounds of pressure PSI, at a temperature of 250 degrees Fahrenheit.

19 "Body art", the practice of physical body adornment, alteration or modification by means
20 including, but not limited to, piercing, tattooing, branding, braiding, beading, implantation or
21 scarring.

22 "Body art establishment", any facility that has been inspected and approved by the
23 department for use in conducting of body art and for which a current permit is issued by the
24 department in accordance with this chapter.

25 "Body piercing", the form of body art requiring or consisting of the puncturing or
26 penetration of the skin or of a membrane of a person for the purpose of the temporary or
27 permanent placement or insertion of jewelry or other adornment or device therein.

28 "Braiding", the form of body art requiring or consisting of the cutting of strips of skin of
29 a person, which strips are then to be intertwined with one another and placed onto such person so

30 as to cause or allow the incised and interwoven strips of skin to heal in such intertwined
31 condition.

32 "Branding", the form of body art consisting of or requiring the inducement of a burn that
33 results in the scarring of the skin of a person by means of the use of a heated instrument or
34 object.

35 "Cleaning area", the area in a body art establishment used in the sterilization, sanitation
36 or other cleaning of instruments or other equipment used for the practice of body art.

37 "Contaminated or contamination", the presence of or a reasonable possibility of the
38 presence of blood, bodily fluids, infectious or potentially infectious matter on an inanimate
39 object.

40 "Contaminated waste", any liquid or semi-liquid blood or other potentially infectious
41 material; contaminated items that would release blood or other potentially infectious material in
42 a liquid or semi-liquid state if compressed; items on which there is dried blood or other
43 potentially infectious material and which are capable of releasing these materials during
44 handling; sharps and any wastes containing blood or other potentially infectious materials, as
45 defined in 29 CFR 1910:1030, 105 CMR 480.000 et seq, or in this chapter.

46 "Cosmetic tattooing", "permanent cosmetics", "micro pigment implantation" or "dermal
47 pigmentation", the form of body art requiring the implantation of permanent pigment around the
48 eyes, lips and cheeks of the face and hair imitation.

49 "Customer or client", a person upon whom one or more forms of body art is to be
50 performed, and shall include a minor client.

51 "Customer waiting area", the area in a body art establishment for use and occupation by
52 persons and clients prior to and after the conduct of body art.

53 "Department", the department of public health.

54 "Disinfect", the destruction of pathogenic microorganisms using a liquid chemical
55 germicide.

56 "Disinfectant", liquid chemical germicide.

57 "Dermis", the deeper, thicker portion on the skin lying beneath the epidermis, including
58 the subcutaneous layer.

59 "Ear piercing" the puncturing of the outer perimeter or lobe of the ear using a pre-
60 sterilized single use stud and clasp ear piercing system following manufacturer instructions.

61 "Epidermis", the outer layer of skin which is composed of 4 recognizable layers of cells
62 usually a total of about 0.1 mm thick.

63 "Equipment", all machinery, fixtures, containers, vessels, tools, devices, implements,
64 furniture, display cases, storage units, sinks, and all other apparatus and appurtenances used in
65 connection with the operation of a body art establishment.

66 "Exposure", an event whereby there is an eye, mouth or other mucous membrane, non-
67 intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an
68 eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other
69 potentially infectious matter.

70 "Exposure control plan", a plan drafted by an operator pursuant to the requirements of the
71 United States Occupational Safety and Health Administration to eliminate or minimize the
72 potential for an exposure.

73 "Exposure incident report", a written report detailing the circumstances of an exposure.

74 "Germicide or germicidal solution", liquid chemical germicide.

75 "Hand sink", a sink supplied with hot and cold potable water under pressure used solely
76 for washing hands, arms, or other portions of the body.

77 "Hot water", water which is heated to attain and maintain a temperature of between 110
78 degrees and 130 degrees Fahrenheit.

79 "Infectious waste", contaminated waste.

80 “Ink”, “Dye” or “Pigment”, the metal or salt-based substance injected into the
81 subcutaneous portion of the skin in the act or process of creating a tattoo.

82 "Instrument" or "Instrument used for body art", those hand pieces, needles, needle bars
83 and other instruments that may come in contact with a client's body or possible exposure to
84 bodily fluids during body art procedures.

85 "Instrument sink", a sink used exclusively for the cleaning of instruments.

86 "Instrument storage area", the area in a body art establishment used for the storage of
87 linens, equipment and instruments used for body art.

88 "Invasive", a procedure causing entry into the body either by incision or by the insertion
89 of an instrument into or through the skin or mucosa, or by any other means intended to puncture,
90 break or compromise the skin or mucosa.

91 “Janitorial sink”, a sink of adequate size equipped with hot and cold water under pressure
92 so as to permit the cleaning of the body art establishment and any equipment used for cleaning.

93 "Jewelry", any device or adornment inserted into a pierced or incised area or portion of
94 the body.

95 "Light-colored", a light reflectance value of 70 per cent or greater.

96 "Liquid chemical germicide", a substance registered with the United States
97 Environmental Protection Agency for use in the destruction of pathogenic microorganisms or an
98 approximate 1:100 dilution of household chlorine bleach in clean water mixed fresh daily.

99 "Minor" or "minor client", a person of less that 18 years of age as of that person's last
100 birth date.

101 "Mobile body art establishment", any trailer, truck, car, van, camper or other motorized
102 or non-motorized vehicle, a shed, tent, movable structure, bar, home or other facility wherein, or
103 concert, fair, party or other event whereat one desires to or actually does conduct body art
104 procedures, excepting only a licensed body art establishment.

105 "Operator", any person alone or jointly with other persons who owns, controls, operates
106 or manages a body art establishment.

107 "Parenteral", the invasion of the skin barrier or mucous membranes.

108 "Permit", a document issued by the department pursuant to this chapter authorizing the
109 use of a facility for the conducting of body art.

110 "Physician", a person licensed by the commonwealth in accordance with section 2 of
111 chapter 112.

112 "Practitioner", a person who has received a license to perform body art by the department
113 pursuant to this chapter.

114 "Practitioner License", license issued by the department to a person qualified to engage in
115 the practice of body art in accordance with this chapter.

116 "Procedure surface", any surface of an inanimate object that contacts an unclothed part of
117 a person upon whom body art is to be performed.

118 "Prohibited forms of body art" means those forms of body art prohibited under this
119 chapter and set forth in section 56.

120 "Sanitize", the process of reducing the number of microorganisms on a surface to a safe
121 level using a liquid chemical germicide.

122 "Sanitizer", liquid chemical germicide.

123 "Scarification", a form of body art that requires the use of an instrument to cut a design
124 into the skin to produce a scar.

125 "Sharps", any object (sterile or not) that may purposefully or accidentally cut or penetrate
126 the skin or mucosa of a person including, but not limited to, needles, scalpel blades, razor blades
127 and lancets.

128 "Sharp's container", a puncture-resistant, leak-proof container that can be closed for
129 handling, storage, transportation or disposal and is labeled with the international biohazard
130 symbol.

131 "Single-use", products or items that are intended for one-time, one-person use and are to
132 be disposed of after such use including, but not limited to, cotton swabs or balls, tissues or paper
133 products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel
134 blades, stencils, ink cups and protective gloves.

135 "Sterilization unit", a unit designed to and which is effective at killing all
136 microorganisms, including bacterial spores and which is approved by the department for use for
137 sterilization in a body art establishment.

138 "Sterilize", to effectively kill all microorganisms, including bacterial spores.

139 "Tattoo", the form of body art consisting of the injection of ink, dye or other medium to
140 form or create an indelible mark, figure or decorative design in the subcutaneous portion of the
141 skin.

142 "Tattooing", the act or process of creating a tattoo.

143 "Tattoo gun", an electric, vertically vibrating tool used for tattooing.

144 "Temporary body art establishment", mobile body art establishment.

145 "Three dimensional body art" or "Beading" or "Implantation", the form of body art
146 consisting of or requiring the placement, injection or insertion of an object, device or other thing
147 made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials,
148 beneath the surface of the skin of a person, not including body piercing.

149 "Ultrasonic cleaning unit", a unit approved by the department and physically large
150 enough to fully submerge instruments in liquid, which unit removes all foreign matter from the
151 instruments by means of high frequency oscillations transmitted through the contained liquid.

152 "Universal precautions" or "Standard precautions", the set of guidelines and controls,
153 published by the Center for Disease Control as "guidelines for prevention of transmission of
154 human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers"
155 in Morbidity and Mortality Weekly Report by the Center for Disease Control (CDC) June 23,
156 1989, Vol. 38, NO. S-6, and as "recommendations for preventing transmission of human
157 immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive
158 procedures" in Morbidity and Mortality Weekly Report July 12, 1991, Vol. 40, No. RR-8, each
159 as amended or updated. This method of infection control requires the employer and the employee
160 to assume that all human blood and specified human body fluids are infectious for HIV, HBV
161 and other blood pathogens. Precautions include hand washing, gloving, personal protective
162 equipment, injury prevention, and proper handling and disposal of needles, other sharp
163 instruments, and blood and body fluid contaminated products.

164 "Workstation", an area within a body art facility designated for use in the conducting of
165 body art.

166 Section 2. (a) No person shall conduct any form of body art unless such person holds a
167 valid practitioner license issued by the department pursuant to this chapter.

168 (b) No person shall establish a facility for the conduct of a business consisting of or
169 including the performance of one or more forms of body art upon the person of another without a

170 valid permit to operate such facility as a venue within which to conduct body art issued by the
171 department in accordance with this chapter.

172 (c) The following persons are exempt from the provisions of this chapter:

173 (i) physicians who practice body art as a part of patient treatment; provided, however,
174 that such body art is performed in a medically acceptable manner; and

175 (ii) individuals who pierce only the lobe of the ear with a pre-sterilized, single-use stud
176 and clasp ear piercing system without the use of a so-called piercing gun.

177 (d) The requirements of this chapter to obtain a practitioner license and a body art facility
178 permit are separate from and in addition to the requirements of section 5 of chapter 110. An
179 applicant for a body art establishment permit shall comply with the requirements section 5 of
180 chapter 110. Prior to the issuance of a body art establishment permit an applicant therefore shall
181 demonstrate to the department compliance therewith by way of presentment to the department
182 the original of the business certificate issued by the city clerk pursuant to section 5 of chapter
183 110.

184 Section 3. (a) A person seeking registration under this chapter so as to obtain a
185 practitioner license shall submit a completed application provided by the department and shall
186 pay a fee of $250. A practitioner license shall be valid for no more than 1 year. The department
187 may renew a practitioner license under this chapter and each applicant for such renewal shall pay
188 a renewal fee of $250. All practitioner licenses shall expire on December 31 of the year of
189 issuance.

190 (b) An applicant for a practitioner license shall demonstrate to the department his or her
191 successful compliance with all training, disclosure, consent and educational requirements of this
192 chapter relative to the form of body art for which such applicant seeks a practitioner license prior
193 to the issuance or renewal of a practitioner license by the department.

194 (c) An applicant for a practitioner license shall provide to the department, and shall
195 provide to the owner of any body art establishment in which the applicant intends to perform or
196 in which he does perform body art, valid documentation of his hepatitis B virus (HBV)
197 vaccination status stating:

198 (i) Certification of completed vaccination;

199 (ii) Laboratory evidence of immunity;

200 (iii) Documentation stating the vaccine is contraindicated for medical reasons.
201 Contraindication requires a dated and signed licensed health care professional's statement
202 specifying the name of the practitioner license applicant employee and that the vaccine cannot be
203 given; or,

204 (iv) Certificate of vaccination declination of HBV, i.e. for medical or religious reasons as
205 provided in section 15 of chapter 76.

206 Section 4. A body art practitioner shall maintain a high degree of personal cleanliness,
207 conform to hygienic practices and wear clean clothes when conducting body art. If the clothes of
208 a body art practitioner are or become contaminated, clean clothing shall be donned prior to
209 commencement of any further body art.

210 Section 5. (a) Every applicant for a practitioner license or a renewal of a practitioner
211 license, in order to be qualified for such license, shall provide to the department evidence of
212 satisfaction of the following minimal training requirements:

213 (i) For a practitioner license enabling one to perform body piercing, the completion of a
214 complete course in anatomy and physiology, (i.e. anatomy and physiology I and II) with a grade
215 of C or better at a college accredited by the New England Association of Schools and Colleges,
216 or comparable accrediting entity. This course work shall include instruction on the systems of the
217 integumentary system (skin).

218 (ii) For a practitioner license that enables one to perform tattooing, branding and
219 scarification, but not body piercing, the successful completion of a complete course in anatomy
220 and physiology, (i.e. anatomy and physiology I and II) with a grade of C or better at a college
221 accredited by the New England Association of Schools and Colleges, or comparable accrediting
222 entity. This course work shall include instruction on the systems of the integumentary system.
223 Such other course or program as the department shall deem appropriate and acceptable may be
224 substituted for the course in anatomy and physiology otherwise required of an applicant for a
225 practitioner license that enables one to perform tattooing, branding and scarification, but not
226 body piercing.

227 (iii) For all body art practitioners, the successful completion of a course on prevention of
228 disease transmission and blood borne pathogens taught by an instructor trained and sufficiently
229 knowledgeable to teach this OSHA course. Such knowledge shall include the requirements of 29
230 CFR 190.1030.

231 (iv) For all body art practitioners, current certification in American Red Cross basic first
232 aid or its equivalent and advanced cardio-pulmonary resuscitation.

233 (v) Evidence satisfactory to the department of at least 2 years actual experience in the
234 practice of performing body art of the kind for which the applicant seeks a practitioner license to
235 perform, whether such experience was obtained within or outside of the commonwealth, or
236 evidence of a completed apprenticeship program as approved by the commonwealth or the
237 department, with instruction in the kind of body art for which the applicant seeks a practitioner
238 license to perform.

239 (b) Any course taken by an applicant to fulfill the requirements set forth in this chapter
240 concerning exposure control and blood borne pathogen training shall meet the requirements of
241 29 CFR 1910.1030 et seq, as amended from time to time, and, at a minimum, shall provide
242 instruction in the following subject matter:

243 (i) A general explanation of the epidemiology and symptoms of blood borne diseases and
244 all communicable diseases potentially transmitted through body art;

245 (ii) An explanation of the modes of transmission of blood borne pathogens and other
246 communicable diseases potentially transmitted through body art;

247 (iii) An explanation of the appropriate methods for recognizing tasks and other activities
248 that may involve exposure to blood for the body art practitioner or the client or recipient;

249 (iv) An explanation of the use and limitations of methods that will prevent or reduce
250 exposure to the body art practitioner and the client or recipient of blood borne pathogens and
251 other communicable diseases;

252

253 (v) Information on different types, proper use, and removal of gloves and proper hand
254 washing techniques;

255 (vi) Information on the proper selection and use of autoclaveants and antiseptics;

256 (vii) Information on the HBV vaccine, including information on its efficacy, safety,
257 method of administration, and the benefits of vaccination against HBV;

258 (viii) An explanation of what constitutes an exposure incident, the risk of disease
259 transmission following an exposure incident, and the options for post-exposure evaluation and
260 follow-up if an exposure incident occurs involving blood borne pathogens; and,

261 (ix) An opportunity for interactive questions and answers with the instructor of the
262 training session.

263 Upon conclusion of a course as describe above, an examination based on the information
264 covered in the course shall be administered to each attendee of the course by the entity
265 administering the course, with documentation of the results for each attendee provided to him or
266 her. The practitioner license applicant shall provide the results of such examination to the
267 department.

268 Section 6. An applicant for a practitioner license shall sign a statement provided by the
269 department consenting to and agreeing to abide by all of the provisions of this chapter.

270 Section 7. (a) If an applicant for a practitioner license demonstrates compliance with
271 clause (i) of subsection (a) of section 5 and all other provisions of this chapter, excepting only
272 clause (ii) of subsection (a) of section 5, than the department is hereby authorized to issue a

273 practitioner license pursuant to the provisions of this chapter which authorizes the applicant to
274 conduct body art consisting only of body piercing.

275 (b) If an applicant for a practitioner license does not demonstrate compliance with clause
276 (i) of subsection (a) of section 5, but does demonstrate compliance with clause (ii) of subsection
277 (a) of section 5 and with all other provisions of this chapter, than the department is hereby
278 authorized to issue a practitioner license pursuant to the provisions of this chapter that authorizes
279 the applicant to conduct body art consisting only of tattooing, branding and scarification.

280 Section 8. (a) A body art practitioner shall only perform those forms of body art for
281 which he or she holds a practitioner license issued by the department.

282 (b) A body art practitioner shall only conduct body art within a facility with a current
283 body art establishment permit, and which establishment is in compliance with all provisions of
284 this chapter. No body art practitioner shall conduct any form of body art in a mobile or
285 temporary body art establishment or establish or operate a mobile or temporary body art
286 establishment.

287 Section 9. A body art practitioner or an operator shall post in an area of the body art
288 establishment accessible to the department and to clients the original of the current practitioner
289 license of the body art practitioner.

290 Section 10. A body art practitioner shall not conduct any form of body art while under the
291 influence of alcohol or drugs.

292 Section 11. A body art practitioner shall not:

293 (i) Tattoo a minor client;

294 (ii) Brand a minor client;

295 (iii) Scar or perform scarification upon a minor client;

296 (iv) Pierce the genitalia of a minor client;

297 (v) Pierce a client under 14 years of age with the exception of ear piercing; or

298 (vi) Perform or engage in any of the activities prohibited under section 56.

299 Section 12. A body art practitioner shall only conduct body art under sterile conditions.

300 Section 13. The skin of a body art practitioner shall be free of rash, any lesion or visible
301 sign of infection. A body art practitioner shall not conduct any form of body art upon any area of
302 a client that evidences the presence of any rash, lesion or visible sign of infection.

303 The skin area or mucosa of a client to receive any form of body art shall be free of rash,
304 any lesion or from any visible sign of infection.

305 Section 14. (a)The department shall establish a practitioner license apprenticeship
306 program requiring that all participants in such program adhere to and abide by all relevant
307 provisions of this chapter excepting only section 5.

308 (b) As a minimum requirement of the practitioner license apprenticeship program
309 established by the department, the department shall require that each participant in such program
310 shall be required to complete the requirements in clauses (i) through (iv) of subsection (a) of
311 section 5 and subsection (b) of section 5 prior to a participant in such program conducting any
312 form of body art upon a client or the person of another.

313 (c) The department is hereby authorized to issue an apprentice license to participants in
314 the practitioner license apprenticeship program provided each such participant qualifies for the
315 same pursuant to the provisions of this chapter and the practitioner license apprenticeship
316 program.

317 (d) Before a person acting under an apprentice license conducts any form of body art
318 upon a client, that client shall be advised that the person to conduct such body art is in fact an
319 apprentice and is acting only under an apprentice license.

320 (e) Before a person acting under an apprentice license conducts any form of body art
321 upon a client, such person shall obtain the client's written consent. This written consent shall be
322 physically affixed to the application and consent form for body art required pursuant to section
323 15 and such written consent shall be maintained therewith.

324 Section 15. Every client shall complete an application and consent form approved by the
325 department prior to having any body art performed upon or to their body.

326 Every application and consent form shall contain a minimum of the following:

327 (i) General information regarding body art, including, at a minimum, the following
328 statements:

329 (a) Tattoos should be considered permanent; and

330 (b) The removal of tattoos and scars would require surgery or other medical procedure
331 that may result in scarring or additional scarring of the skin;

332 (ii) Information as to the side effects of body art, including, but not limited to,
333 hypertrophic scarring, possible adverse reaction to ink, dye or pigment, possible change in color

334 of ink, dye or pigment over time, a decreased ability of physician to locate skin melanoma in
335 regions concealed by tattoos, brands, scars and other forms of body art, possible nerve damage,
336 febrile illness, tetanus, systemic infection, and keloid formation;

337 (iii) Client information, including the name, type of body art being performed, age and
338 valid identification; provided, however, that in the case of a minor client, the parent's or legal
339 guardian's name, proof of parentage or legal guardianship through a copy of a birth certificate or
340 court order of guardianship respectively, or a notarized document signed by the parent or legal
341 guardian attesting to the parent's or legal guardian's relationship to the minor client, and the
342 consent to the conduct of the contemplated body art upon the minor client;

343 (iv) Instructions requiring the client to adhere to the exposure control plan as such plan
344 relates to the client's conduct in the body art establishment;

345 (v) The address and phone number of the department and instructions for the client, or in
346 the case of a minor client, the minor client and his or her parent or legal guardian, to contact the
347 department with any questions or concerns regarding safety, sanitization or sterilization
348 procedures;

349 (vi) The name of the body art practitioner who is to conduct the body art upon the client
350 or minor client and that practitioner's department registration number;

351 (vii) The manufacturer codes, if any, the identity of the manufacturer, and lot numbers of
352 any ink, dye or pigment to be used in the body art;

353 (viii) Signature of client; provided, however, that in the case of a minor client, a parent or
354 legal guardian shall sign the consent form in the presence of the body art practitioner;

355 (ix) The signature of body art practitioner;

356 (x) The date of all signatures; and,

357 (xi) The date of the body art procedure, including a daily estimate of progress for the
358 conduct of body art requiring multiple days to complete.

359 Section 16. (a) A client shall inform the body art practitioner of any known chronic
360 medical or communicable conditions, including, but not limited to diabetes; history of
361 hemophilia or bleeding; history of skin disease, skin lesions or skin sensitivities to soap,
362 disinfectants, etc.; history of allergies or adverse reactions to pigments or dyes or other skin
363 sensitivities; history of epilepsy, seizures, fainting or narcolepsy; the taking of medications such
364 as aspirin or other anticoagulants, which thin the blood or interfere with blood clotting; or a
365 history of or suspicion of adverse reaction to latex or products containing latex.

366 (b) A client shall inform the body art practitioner of a known pregnancy or possibility of
367 pregnancy.

368 (c) The body art practitioner shall require the client to sign a release form confirming that
369 the above information was obtained or attempted to be obtained and the client refused to disclose
370 the same.

371 Section 17. No person shall receive any form of body art activity who is under the
372 influence of drugs or alcohol.

373 Section 18. All clients shall obtain, read and follow aftercare instructions appropriate for
374 the form of body art conducted upon such person.

375 Aftercare Instructions shall be approved by the department and shall include, at a
376 minimum the following:

377 (i) Responsibilities and proper care following the procedure;

378 (ii) Restrictions, if any, upon the client;

379 (iii) Signs and symptoms of infection; and,

380 (iv) Instructions to contact a physician if possible signs of infection occur.

381 Section 19. (a) No minor client shall receive a tattoo, be branded, be scarred, or have his
382 or her genitalia pierced.

383 (b) No body art practitioner shall pierce the genitalia of a minor child.

384 (c) No client under fourteen years of age shall be pierced with the sole exception of ear
385 piercing.

386 Section 20. A person seeking registration under this chapter so as to obtain a body art
387 establishment permit shall submit a completed application provided by the department and shall
388 pay a fee of $250. A body art establishment permit shall be valid for no more than one year. The
389 department may renew a body art establishment permit under this chapter and each applicant for
390 such renewal shall pay to the a renewal fee of $250. All body art establishment permits shall
391 expire on December 31 of the year of issuance.

392 Section 21. The operation of a body art establishment or the conduct of any body art
393 under a practitioner license therein shall not occur before 9:00 a.m. nor after 9:00 p.m. Sunday
394 through Thursday and nor before 9:00 a.m. nor after 10:00 p.m. on Friday and Saturday.

395 Section 22. Every operator or applicant for a body art establishment permit shall submit
396 to the department scaled plans and specifications of the proposed facility wherein any body art is
397 intended to be conducted demonstrating the compliance of the facility with this chapter. The
398 department may require an on-sight inspection of the proposed facility to determine and ensure
399 compliance with the requirements of this chapter prior to the issuance by the department of a
400 body art establishment permit pursuant to this chapter.

401 Section 23. (a) Each body art establishment shall have at least 1 workstation.

402 (b) Every workstation shall have a minimum of 60 square feet.

403 (c) The area within each workstation shall be completely screened from view from any
404 person outside such workstation.

405 (d) A workstation shall be used for no other purpose.

406 (e) Each workstation shall be separated from any other area of the body art facility,
407 including other workstations within such body art facility, by a wall or other solid barrier
408 extending from the floor to a minimum height of 8 feet.

409 (f) A workstation shall be maintained in a clean and sterile condition.

410 Section 24. (a) Every body art establishment shall have therein a cleaning area. Every
411 cleaning area shall have an area for the placement and use of an autoclave or other sterilization
412 unit located or positioned so as to be a minimum of 36 inches from a required ultrasonic cleaning
413 unit.

414 (b) Every body art establishment shall have therein an instrument storage area exclusive
415 of the cleaning area. The instrument storage area shall be equipped with cabinets for the storage

416 of all instruments and equipment. The required cabinets shall be located a sufficient distance
417 from the cleaning area so as to prevent contamination of the instruments and equipment stored
418 therein.

419 (c) Every body art establishment shall have therein a customer waiting area exclusive of
420 and separate from any workstation, instrument storage area or cleaning area.

421 Section 25. Every workstation, instrument storage area, toilet room, and cleaning area
422 shall be constructed and maintained as follows so as to provide a durable, smooth, nonabsorbent
423 and washable surface:

424 (i) Floors shall be constructed of commercially rated continuous sheet vinyl, smooth
425 sealed cement, ceramic tile with sealed grout, or other similar materials approved by the
426 department and shall be maintained in good repair free of any holes or cracks;

427 (ii) Walls shall be covered with a semi-gloss or gloss enamel paint, or constructed of
428 fiberglass reinforced panel, ceramic tile with sealed grout or other similar materials approved by
429 the department and shall be maintained in good repair free of any holes or cracks;

430 (iii) Ceilings shall be covered with semi-gloss or gloss enamel paint, or approved
431 commercially rated panels or tiles and maintained in good repair free of any holes, cracks or
432 falling matter.

433 All such floors, walls and ceilings shall be light-colored.

434 Section 26. All electrical wiring shall be installed and maintained in accordance with
435 state and local wiring codes.

436 All electrical outlets in all workstations and cleaning areas shall be equipped with
437 approved ground fault protected receptacles.

438 Section 27. Every workstation shall be well ventilated and have a minimum light service
439 maintained at all times during the conducting of body art at an equivalent of not less than 20 foot
440 candles as measured 36 inches above the floor, except that a minimum of 100 foot candles shall
441 be provided on the area of the client's body subject to the conduct of body art, in any area where
442 instruments or sharps are assembled, and all cleaning areas.

443 Every workstation, cleaning area and every area in a body art establishment where linens,
444 instruments, sharps or other equipment are exposed, sanitized or sterilized shall be equipped
445 exclusively with readily cleanable light fixtures with light bulbs, lenses or globes made of
446 shatterproof material.

447 Section 28. (a) All plumbing and plumbing fixtures shall be installed in compliance with
448 local plumbing codes.

449 (b) To the extent permitted by applicable federal, state and local laws, all liquid wastes
450 shall be discharged through the plumbing system into the public sewerage system or into a
451 department-approved private sewage disposal system.

452 (c) An adequate pressurized potable water supply shall be provided to every body art
453 establishment.

454 (d) The public water supply entering a body art establishment shall be protected by a
455 testable, reduced pressure back flow preventor installed in accordance with 142 CMR 248, as
456 amended from time to time.

457 Section 29. (a) Every body art establishment shall provide toilet rooms with adequate
458 lighting and ventilation to the outside for use by employees and clients, which shall be available
459 to clients during business hours. The number and construction of toilet rooms shall be in
460 accordance with local building and plumbing codes. Every water closet or toilet stall shall be
461 enclosed and have a well-fitting, self-closing door. An adequate supply of toilet tissue shall be
462 provided in a permanently installed dispenser in each water closet or toilet stall. Toilet rooms
463 shall not be used for the storage of instruments or other supplies used for body art.

464 (b) A body art establishment permanently located within a retail shopping center, or
465 similar setting housing multiple operations within 1 enclosed structure having shared entrance
466 and exit points, shall not be required to provide a separate toilet room within such body art
467 establishment if department-approved toilet facilities are located in the retail shopping center
468 within 300 feet of the body art establishment so as to be readily accessible to any client or body
469 art practitioner.

470 (c) A hand sink shall be provided within or adjacent to any toilet room and in each
471 workstation. Every hand sink shall be equipped with an adequate supply of hot and cold water
472 under pressure with fixtures to allow for washing of hands, liquid hand cleanser, single-use
473 sanitary towels in devices for dispensing, and a waste container of washable construction. A
474 hand sink shall not be used as a janitorial sink.

475 (d) At least 1 janitorial sink shall be provided in every body art establishment for use in
476 cleaning the body art establishment and proper disposal of liquid wastes in accordance with all
477 applicable federal, state and local laws.

478 (e) Every cleaning area shall have an instrument sink. Every instrument sink shall be of
479 adequate size and equipped with hot and cold water under pressure so as to permit the cleaning
480 of instruments.

481 (f) Every toilet room, all plumbing and all plumbing fixtures shall be kept clean, fully
482 operative, and in good repair.

483 Section 30. Each operator shall create, update as needed, and comply with an exposure
484 control plan.

485 The exposure control plan for a body art establishment shall be submitted by the operator
486 to the department for review so as to meet all of the requirements of OSHA regulations, to
487 include, but not limited to 29 CFR 1910.1030 et seq, as amended from time to time.

488 A copy of the body art establishment's exposure control plan shall be maintained at the
489 body art establishment at all times and shall be made available to the department upon request.

490 Section 31. A body art establishment shall be required to have a telephone in good
491 working order and easily accessible to all employees and clients during all hours of operation for
492 the purpose of contacting police, fire or emergency medical assistance or ambulance services in
493 the event of an emergency or perceived emergency. A legible sign shall be posted at or adjacent
494 to the telephone indicating the correct emergency telephone numbers and the number of the
495 department.

496 Section 32. No operator shall permit the use of a body art establishment:

497 (i) For the sale of food or beverages, whether to be consumed at the body art
498 establishment or off-site;

499 (ii) As a barbershop or hair salon;

500 (iii) As a nail salon;

501 (iv) As a bar, with or without a license for the sale of alcoholic beverages;

502 (v) As a bowling alley;

503 (vi) For human habitation;

504 (vii) As a tanning salon;

505 (viii) As a massage parlor; or

506 (ix) For any other use which, in the opinion of the department, may cause the
507 contamination of instruments, equipment, a procedure surface or workstation.

508 Section 33. If an applicant for a body art establishment permit demonstrates to the
509 department compliance with this chapter, the department is hereby authorized to issue a body art
510 establishment permit pursuant to the provisions of this chapter.

511 Section 34. The operator of a body art establishment shall post in an area of the body art
512 establishment accessible to the department and to clients the original of the current body art
513 establishment permit issued by the department.

514 Section 35. No person affected with boils, infected wounds, open sores, abrasions,
515 weeping dermatological lesions or acute respiratory infection shall work in any area of, or in any
516 capacity in, a body art establishment which would create a likelihood that that person could
517 contaminate equipment, instruments, supplies, procedure surfaces, workstations or other

518 otherwise compromise or could reasonably be expected to compromise the sterility of the body
519 art establishment with body substances or pathogenic organisms.

520 Section 36. The procedure surface and the surface of all furniture and counter tops
521 located in a workstation, instrument storage area and cleaning area shall be made of materials
522 that are, or shall be treated so as to be, smooth, non-absorbent, non-porous, easily cleanable and
523 able to withstand repeated cleaning and disinfecting. Such surfaces shall be maintained in a good
524 condition free from holes and cracks.

525 Section 37. (a) Every body art establishment shall have at a minimum the following:

526 (i) One or more ultrasonic cleaning units sold for cleaning purposes under approval of the
527 United States Food and Drug Administration. Every ultrasonic cleaning unit shall be clearly
528 labeled "biohazardous" and shall be installed or placed in the cleaning area at a minimum
529 distance of 36 inches from the required autoclave or other sterilization unit.

530 (ii) One or more autoclave or other sterilization unit sold for medical sterilization
531 purposes under approval of the United States Food and Drug Administration; and,

532 (b) Every operator and body art practitioner shall be knowledgeable in the required
533 washing, cleaning and sterilization procedures including the proper operation of the ultrasonic
534 cleaning unit and autoclave or other sterilization unit.

535 Section 38. Every workstation shall have a foot-operated, covered, cleanable, waste
536 receptacle for disposal of trash and other debris.

537 Every workstation shall have an approved sharps container exclusively used for the
538 disposal of contaminated waste.

539 Section 39. (a) Every body art establishment or body art practitioner shall maintain an
540 adequate supply of reusable, launderable linens or single-use linens, such as drapes, lap cloths
541 and aprons, to be used in conducting body art.

542 (b) If used in body art, rotary pens, also known as cosmetic machines, shall have
543 detachable, disposable, sterile combo couplers and shall have detachable, disposable casings or
544 casings designed and manufactured to be easily cleaned and sterilized.

545 (c) All inks, dyes and pigments used to alter the color of skin in the conduct of body art
546 shall be specifically manufactured for such purpose, approved, properly labeled as to its
547 ingredients, manufacturer and lot number in accordance with applicable United States Food and
548 Drug Administration requirements, and shall not be contaminated or adulterated. The mixing of
549 such inks, dyes or pigments or the dilution of the same with potable sterile water is acceptable,
550 unless prohibited or not recommended by the product manufacturer.

551 Inks, dyes and pigments prepared by or at the direction of a body art practitioner for use
552 in body art shall be made exclusively of non-toxic and non-contaminated ingredients approved
553 by the department or the United States Food and Drug Administration.

554 (d) Equipment, instruments and supplies intended for single-use shall not be used more
555 that one time.

556 Section 40. Jewelry shall be sterilized, free from polishing compounds, free from nicks,
557 scratches, burrs or irregular surface conditions. Jewelry of 16 gage girth or thicker shall not have
558 raised external threads or threading. Jewelry shall be in good condition, designed and
559 manufactured for insertion into the intended body part of the client.

560 The use of previously worn jewelry or jewelry brought into the body art establishment by
561 the client or another is prohibited.

562 Only jewelry manufactured of surgical implant stainless steel of American Society for
563 Testing and Material Standards grade F138, surgical implant solid 14K or 18K white or yellow
564 gold, niobium, surgical implant titanium of Ti6A4V ELI, American Society for Testing and
565 Material Standards F-136-98, platinum or other materials considered by the department to be
566 equally bio-compatible and capable of adequate cleaning and sterilization shall be inserted into a
567 client.

568 Section 41. No operator, body art practitioner or other person shall utilize or have
569 available in a body art establishment any:

570 (i) Instruments or materials, such as styptic pencils or devices, alum, or any similar
571 material, used to check the flow of blood;

572 (ii) Liquid sterilants for the attempted sterilization of any re-usable instrument or
573 component;

574 (iii) Rotary pens that are designed or manufactured with a sponge type material at the
575 opening of the chamber for the purpose of prohibiting the backflow of pigment and body fluid
576 into the machine;

577 (iv) Multiple-use instruments or components that are designed in such a manner that
578 restrict or prevent proper washing, cleaning or sterilization;

579 (v) Drugs, chemicals or agents that require a licensed medical practitioner's authorization
580 for use, application or dispensation;

581 (vi) Suturing kits or suturing devices, scalpels, cauterizing tools or devices, or other tools,
582 devices or instruments used for or in conjunction with any prohibited body art, and not otherwise
583 properly used for any allowed body art;

584 (vii) Piercing needles or piercing tapers for the sale or use by one not a body art
585 practitioner; or

586 (viii) Needles used in the practice of play piercing.

587 Section 42. No body art practitioner shall conduct any form of body art upon an animal.

588 No animal, except one actually serving as any guide animal, signal animal or service
589 animal accompanied by a totally or partially blind person or deaf person or a person whose
590 hearing is impaired or handicapped person, shall be allowed in a body art establishment.

591 Section 43. No person shall smoke, or otherwise use any form of tobacco, eat or drink at
592 or in a workstation, instrument storage area or cleaning area. Only in the case of medical need
593 may fluids be consumed by a client.

594 Section 44. (a) Except as set forth in these regulations, no operator, body art practitioner
595 or other person shall deliberately expose any client or person to disease or illness or otherwise
596 knowingly contaminate any instrument or area in a body art establishment without then
597 sterilizing the instrument or area.

598 (b) An exposure incident report shall be completed by the close of the business day
599 during which an exposure has or might have taken place by the involved or knowledgeable body
600 art practitioner for every exposure incident occurring in the conduct of any body art. Each
601 exposure incident report shall contain:

602 (i) A copy of the application and consent form for body art completed by any client or
603 minor client involved in the exposure incident;

604 (ii) A full description of the exposure incident, including the portion of the body involved
605 therein;

606 (iii) The name or description of any instrument or other equipment implicated;

607 (iv) A copy of the practitioner license of the involved body art practitioner.

608 (v) Date and time of exposure;

609 (vi) A copy of any medical history released to the body art establishment or body art
610 practitioner; and

611 (vii) Information regarding any recommendation to refer to a physician or waiver to
612 consult a physician by persons involved.

613 Section 45. (a) Every operator shall have and retain at the body art establishment for
614 inspection by the department the following information for the time period specified below, to be
615 updated as needed to remain current:

616 (i) One copy of the exposure control plan for the body art establishment submitted to the
617 department;

618 (ii) Employment records covering the last 3 years of operation that indicate the
619 employee's name, home address, home phone number, identification photograph, state
620 identification card number, physical description as detailed on state identification card, date of
621 birth, types of body art procedures conducted, dates of employment at the body art

622 establishment, body art practitioner registration number, hepatitis B vaccination status or
623 declination notification;

624 (iii) Body art practitioner independent operator records for the last 3 years that indicate
625 the operator's name, home address, phone number, state identification card number, physical
626 description as detailed on state identification card, date of birth, types of body art procedures
627 conducted, dates operating at the body art establishment, body art practitioner registration
628 number, hepatitis B vaccination status or declination notification;

629 (iv) Client records for the last 2 years, which shall include copies of all application and
630 consent forms for body art;

631 (v) Waste hauler manifests for contaminated waste transport and disposal over the last 3
632 years;

633 (vi) Documentation for the last 3 years to verify training of exposure control plan to all
634 employees and body art practitioner independent operators conducting body art at such
635 establishment;

636 (vii) Commercial biological monitoring spore system test results for the last 3 years; and

637 (viii) At least 1 copy of the most current version of the text of this chapter and any state
638 regulations concerning the practice of body art.

639 (b) Every operator shall have and permanently retain at the body art establishment for
640 inspection by the department all exposure incident reports. The disposal or destruction of these
641 reports is prohibited.

642 Section 46. Every area of a body art establishment shall be kept in good repair, clean and
643 free of all vermin and maintained so as to prevent contamination of clients and other persons.

644 All instruments, equipment and procedure surfaces used for body art, including, but not
645 limited to, devices, containers, cabinets, storage compartments, chairs, tables, counters, and
646 dispensers shall be maintained clean, fully operative, and in good repair and free from
647 contamination.

648 All instruments manufactured for performing any specific body art shall be so designated,
649 used and approved, and shall not be modified, adulterated, contaminated or improperly used.
650 Instruments used for body piercing shall be constructed of stainless surgical-grade steel, and
651 designed and manufactured for such use.

652 Section 47.(a) Every contaminated reusable instrument or component thereof, including,
653 but not limited to, needles, needle bars, needle tubes, needle caps, body piercing tubes, rotary
654 pens, and coil machines, shall be immersed in water or other approved liquid solution in the
655 cleaning area until cleaned and sterilized.

656 (b) Prior to sterilization, every such instrument shall be thoroughly washed by scrubbing
657 with an appropriate disinfectant and hot water in accordance with manufacturer's instructions so
658 as to remove contamination and foreign matter.

659 (c) Upon completion of the washing process as set forth in subsection (b), every such
660 instrument shall be cleaned using an ultrasonic cleaning unit in accordance with manufacturer's
661 instructions.

662 (d) Upon completion of the cleaning process as set forth in subsection (c), every such
663 instrument shall be packaged into procedure set-up packages with color change indicators
664 designed to indicate complete sterilization thereof, initials of the person responsible for
665 sterilizing the instruments and date of such sterilization. Instruments may be packaged
666 individually or with other instruments to the extent permitted under the package manufacturer's
667 instructions.

668 (e) Upon completion of the packaging process as set forth in subsection (d), every such
669 instrument shall be properly sterilized by properly autoclaving in an approved autoclave or
670 sterilized in another type of sterilization unit according to manufacturer's instructions.

671 (f) If a package becomes wet, is opened or is otherwise compromised so as to allow the
672 possible contamination of the contents of the package, any instrument therein shall be deemed
673 contaminated and shall again be washed, cleaned, packaged and sterilized as indicated above
674 prior to use.

675 (g) Sterilized instruments shall be stored in a dry, clean cabinet or tightly covered
676 container. Cabinets and containers designated for the storage of sterilized instruments shall be
677 used for that purpose exclusively.

678 (h) Every sterilized package shall be deemed expired 6 months after the date of
679 sterilization. Every instrument therein shall again be washed, cleaned, packaged and sterilized
680 consistent with the provisions of this section prior to use.

681 (i) Liquid sterilants shall not be used for the sterilization of any reusable instrument.

682 Section 48. (a) All instruments shall be stored in the instrument storage area in a manner
683 so as to prevent contamination. Identical instruments shall be exclusively stored together, unless
684 intermingled storage with different instruments does not represent a hazard as determined by the
685 department.

686 (b) All germicides, disinfectants, chemicals, and cleansers shall be used according to the
687 manufacturer's requirements, used only for the purpose approved and intended by the
688 manufacturer and properly labeled and stored so as to prevent contamination and hazard.

689 (c) Clean linen shall be stored in a manner so as to prevent contamination. Containers
690 used for the storage of such linen shall be clearly labeled as to the contents and used for no other
691 purpose. Linens that have become soiled or contaminated shall be disposed of, or not be used,
692 until properly laundered. Contaminated linen shall be labeled, handled, stored, transported, and
693 laundered or disposed of so as to prevent hazard in a manner approved by the department.

694 Any other protective clothing, garment or cloth items worn during or used during in body
695 art and intended for reuse shall be mechanically washed with detergent and dried after each use.
696 The items shall be stored in a clean, dry manner and protected from contamination until used.
697 Should such items become contaminated directly or indirectly with bodily fluids, the items shall
698 be washed in accordance with standards applicable to hospitals and medical care facilities, at a
699 temperature of 160 degrees Fahrenheit or a temperature of 120 degrees Fahrenheit with the use
700 of chlorine disinfectant.

701 (d) All storage containers, cabinets, shelves and other storage areas in the instrument
702 storage area shall be properly labeled as to their contents, including, but not limited to,
703 identification of contaminated or soiled contents as appropriate.

704 Section 49. Every ultrasonic cleaning unit and autoclave or sterilization unit shall be used
705 and maintained according to manufacturer's specifications. Each ultrasonic cleaning unit,
706 autoclave or other sterilization unit shall be emptied and thoroughly cleaned and disinfected at
707 least once each day that the unit is used.

708 Every autoclave or sterilization unit shall be tested with a commercial biological
709 monitoring spore system test in a manner and frequency consistent with the manufacturer's
710 instructions, but no less than once every week, to monitor the efficacy of the eradication of all
711 living organisms, including spores, by the autoclave or other sterilization unit.

712 Biological monitoring spore system testing of the autoclave or other sterilization unit
713 shall be performed by an independent commercial testing laboratory contracted by the operator
714 or body art practitioner. A provision shall be included in the contact between the operator or
715 body art practitioner with the commercial testing laboratory requiring the commercial testing
716 facility to notify the department of any failure of the autoclave or other sterilization unit to
717 eradicate all living organisms, including spores.

718 Section 50. All waste shall be removed from the body art establishment on a daily basis
719 and placed in an approved secured receptacle for pickup and removal.

720 All contaminated waste in solid form and sharps, shall be disposed of through use of an
721 approved waste hauler in accordance with all applicable state and federal and local laws. The
722 frequency of disposal shall be determined by the department, but shall be no less than every 30
723 days.

724 Section 51. (a) The conduct of body art shall occur only upon a client or minor client in a
725 workstation under sterile conditions.

726 Only the client, a the parent or legal guardian of a minor client, the guide or service
727 animal of a client, the body art practitioner conducting the body art and an assistant or apprentice
728 to the body art practitioner, with the express permission of the client, shall be permitted in the
729 workstation during the conduct of body art.

730 (b) All surfaces in a workstation which come in contact with a client or which become
731 contaminated or which may reasonably have become contaminated shall be cleaned with water
732 and soap or other appropriate cleaning compound immediately following the conduct of body art
733 upon a client.

734 The workstation, including, but not limited to the client's chair, table, tray, procedure
735 surface and similar surfaces shall be thoroughly sanitized with an approved disinfectant
736 immediately before and immediately after the conduct of body art upon a client.

737 (c) A body art practitioner shall clean his or her hands and forearms thoroughly by
738 washing with antibacterial soap and warm water and promptly dry the same with single-use
739 paper towels or like material prior to conducting any body art.

740 A body art practitioner shall wear new, clean, single-use examination gloves while
741 assembling all instruments and other supplies intended for use in the conduct of body art and
742 during the conduct of body art upon a client. New, clean, single-use non-latex examination
743 gloves shall be used during the preparation for and the conduct of any body art upon a client with
744 a known or a suspected latex allergy.

745 If an examination glove is pierced, torn or contaminated through contact with any part of
746 the client not subject to the conduct of body art or such other surface so as to present the
747 possibility of contamination, any person other than the client, or otherwise exposed to an

748 unsanitary or non-sterile surface, both gloves shall be promptly removed and discarded into an
749 appropriate waste receptacle. The body art practitioner shall don new gloves before proceeding
750 with the conduct of body art.

751 If the gloves of a body art practitioner are removed at any time during assembly of
752 instruments or supplies, or the conduct of body art, the body art practitioner shall clean his or her
753 hands and don new gloves in accordance with this section.

754 The use of single-use examination gloves does not preclude or substitute for the above
755 hand washing requirement.

756 (d) Every body art practitioner shall use linens, properly cleaned in accordance with these
757 regulations, or new single-use drapes, lap cloths, and aprons for each element of body art
758 conducted upon a client.

759 Every substance used in the conduct of body art shall be dispensed from containers so as
760 to prevent contamination or the possibility of contamination of the unused portion. Immediately
761 before tattooing a client, a sufficient quantity of the ink, dye or pigment to be used shall be
762 transferred from its original bottle or container into sterile, single-use disposable cups, caps or
763 containers.

764 Upon sanitization of the workstation, the instrument tray shall be covered with an
765 uncontaminated single-use paper towel, tray cover or similar material.

766 Every instrument required for the conduct of body art upon a client shall be placed and
767 arranged on the instrument tray in a manner so as to prevent contamination of sterilized

768 instruments. All sterilized instruments shall remain in sterile packages until opened in front of
769 the client.

770 Sharps containers shall be easily accessible to the body art practitioner and located as
771 close as is feasible to the immediate area where the sharps will be used.

772 (e) All instruments used in the conduct of body art shall be without contamination, and
773 shall be properly cleaned, sanitized and sterilized in accordance with this chapter.

774 All instruments and other equipment or supplies used in the conduct of body art that are
775 designed or intended for single-use shall only be used once.

776 All sharps shall be properly disposed of immediately following use in a sharps container.

777 All product applied to the skin, including body art stencils, shall be single-use and shall
778 be used only once.

779 Products used in the application of body art stencils shall be dispensed and applied to the
780 area of the client upon which the body art is to be performed with sterile gauze or other sterile
781 applicator so as to prevent contamination of the container and contents of the product in use. The
782 gause or other applicator shall be used only once.

783 Only single-use disposable razors shall be used in the conducting of body art and such
784 single-use disposable razors shall not be used more than one time.

785 Section 52. Disposable items such as gloves, wipes, cotton balls, Q-tips, water cups, rinse
786 cups that are used alone or in an ultrasonic cleaning unit, drapes, lap cloths, aprons and other
787 single-use items that have come into contact with any person, client, workstation, instrument
788 trays, counters, towels or linens used for the conduct of body art, or have otherwise become

789 contaminated shall be promptly discarded during or upon completion of the conduct of body art
790 into an appropriate waste receptacle in accordance with this chapter.

791 Section 53. The following shall be deemed to be multiple body art procedures on a single
792 client, each requiring proper washing, cleaning, sanitization and sterilization of instruments,
793 workstations and other equipment and areas as set forth under these regulations:

794 (i) Creating 2 or more tattoos on different areas of the body of a single client;

795 (ii) The use of more than one needle or scalpel during the conduct of body art upon a
796 single client; or

797 (iii) Creating one tattoo and the use of one needle or scalpel on a single client.

798 Section 54. Cosmetic tattooing, permanent cosmetics, micro pigment implantation or
799 dermal pigmentation, are all prohibited unless performed by a medical doctor licensed by the
800 commonwealth or such other person that receives a license, permit or registration by the
801 commonwealth specifically to perform such activities.

802 If a person obtains such a license, permit or registration from the commonwealth, such
803 person may conduct such body art provided all requirements of this chapter are complied with,
804 excepting only subsection (a) of section 2.

805 Section 55. The use of a piercing gun is prohibited at all times.

806 Section 56. The following body art practices are prohibited:

807 (i) Piercing of the uvula, tracheal area, neck, ankle, gums, webbed area of the hand or
808 foot, lingual frenum, clitoris, anus, or eyelid;

809 (ii) Piercing between the ribs or vertebrae;

810 (iii) Any form of chest or deep muscle piercings, excluding piercing of a nipple;

811 (iv) The form of body piercing known as pocketing;

812 (v) Piercing or skewering of a testicle;

813 (vi) Deep piercing of the penis or trans-penis piercing in any area from the corona glandis
814 to the pubic bone;

815 (vii) Piercing through the scrotum, deep piercing of the scrotum or trans-scrotal piercing;

816 (viii) Deep piercing of the vagina, including but not limited to triangles;

817 (ix) Cutting, splitting or other bifurcation of the tongue unless performed by a medical
818 doctor licensed by the commonwealth;

819 (x) Braiding of the skin unless performed by a medical doctor licensed by the
820 commonwealth;

821 (xi) Three dimensional body art, including beading and implantation unless performed by
822 a medical doctor licensed by the commonwealth;

823 (xii) Filing, shaping or the intentional fracturing or extraction of a tooth unless performed
824 by a dentist licensed by the commonwealth;

825 (xiii) Cutting, notching, sculpting or other modification of cartilage unless performed by
826 a doctor licensed by the commonwealth;

827 (xiv) The intentional amputation of any part of the body unless performed by a doctor
828 licensed by the commonwealth;

829 (xv) The modification of the genitalia by means of sub-incision, bifurcation, castration,
830 male or female nullification or other surgical means unless performed by a doctor licensed by the
831 commonwealth; or

832 (xvi) The introduction of saline solution or other liquid or semi-liquid substance into the
833 body of another for the purposed of causing a modification of the body unless performed by a
834 medical doctor licensed by the commonwealth.

835 Section 57. (a) Variance may be granted from a particular section or provision of this
836 chapter by the department with respect to a particular case only when, in the sole opinion of the
837 department:

838 (i) The enforcement of the subject section or provision would do manifest injustice; and

839 (ii) The applicant for a practitioner license or body art establishment permit, as the case
840 may be, has proved to the satisfaction of the department that the same degree of protection
841 required under this chapter can be achieved without the strict application or enforcement of the
842 subject section or provision.

843 (b) Every request for a variance pursuant shall be made in writing to the department and
844 shall state the specific section, subsection or provision from which variance is sought.

845 Every variance granted by the department shall be in writing and the original of the
846 variance document shall be posted, in the case of a variance relating to a practitioner license,
847 with the posting of the practitioner license as required by section 9 and in the case of a variance

848 relating to a body art establishment permit, with the posting of the body art establishment permit
849 as required by section 34.

850 A copy or duplicate original of all variance documents issued by the department shall be
851 held on file in an office of the department.

852 A variance document issued by the department shall contain information so as to
853 reasonably inform the public of the nature of the variance, the need therefore, the specific section
854 or provision of this chapter from which variance was granted and the name of the subject body
855 art practitioner or body art establishment.

856 Information advising as to whether the subject variance is unlimited in time or duration or
857 has a fixed expiration date shall be detailed in all variance documents issued by the department.

858 (c) Any variance granted by the department may be subject to such qualification,
859 expiration, revocation, modification or suspension as the department shall deem appropriate.

860 Section 58. A practitioner license shall be suspended by the department immediately
861 upon written notice of such suspension to the subject body art practitioner when, in the sole
862 discretion of the department, the department has reason to believe that, due to a condition or
863 practice of the body art practitioner, an imminent threat to the public health or welfare exists.

864 When the condition or practice believed to cause such threat to the public health or
865 welfare is abated or corrected to the satisfaction of the department, the department may terminate
866 the suspension of the practitioner license of the subject body art practitioner and reinstate the
867 same upon written notice to the body art practitioner and the practitioner license of such body art

868 practitioner shall remain in full force and effect until the expiration of the same or until a
869 subsequent suspension, termination, revocation or modification thereof.

870 In all other instances of a violation of this chapter by a body art practitioner, the
871 department shall serve upon the subject body art practitioner written order of notice detailing the
872 condition, event or practice determined by the department to be in violation of this chapter and
873 such written order of notice shall instruct the body art practitioner that he or she shall have 5
874 business days to abate or correct such condition, event or practice to the satisfaction of the
875 department.

876 Should a body art practitioner, subject to an order of notice pursuant to this section fail to
877 abate or correct the condition, event or practice which is the subject of an order of notice, or to
878 otherwise comply with an order of notice, the department may suspend, terminate, revoke or
879 modify the license held by such body art practitioner.

880 Section 59. A body art establishment permit shall be suspended by the department
881 immediately upon written notice of such suspension to the subject operator when, in the sole
882 discretion of the department, due to a condition of or practice in the body art establishment, the
883 department has reason to believe that an imminent threat to the public health and or welfare
884 exists.

885 When the condition or practice believed to cause such threat to the public health and or
886 welfare is abated or corrected to the satisfaction of the department, the department may terminate
887 the suspension of the body art establishment permit of the subject operator and reinstate the same
888 upon written notice to the subject operator and the body art establishment permit of such body art

889 establishment shall remain in full force and effect until the expiration of the same or until a
890 subsequent suspension, termination, revocation or modification thereof.

891 In all other instances of a violation of this chapter by an operator or in a body art
892 establishment, the department shall serve upon the subject operator written order of notice
893 detailing the condition, event or practice determined by the department to be in violation of this
894 chapter and such order of notice shall instruct the operator that he or she shall have 5 business
895 days to abate or correct such condition, event or practice to the satisfaction of the department.

896 Should an operator, subject to an order of notice pursuant to this section fail to abate or
897 correct the condition, event or practice which is the subject of an order of notice, or to otherwise
898 comply with an order of notice, the department may suspend, terminate, revoke or modify the
899 body art establishment permit held by such operator.

900 Section 60. (a) Whoever violates any provision of this chapter may be penalized by
901 indictment or on a criminal complaint brought in the district court.

902 The fine for a violation of any provision of this chapter shall be no less than $300 per
903 offense. Each day that a violation continues shall be deemed to be a separate offense.

904 (b) Whoever violates any provision of this chapter, may be penalized by a non-criminal
905 disposition as provided in section 21D of chapter 40.

906 Section 61. The department shall promulgate any rules, regulations or standards
907 necessary to implement this chapter.