

sterilized single-use stud-and-clasp system manufactured exclusively for ear piercing.

2.20 Department (Health Department) - Shall mean the Department of Health of the Cattaraugus County Health District, its employees or other representatives authorized by the Commissioner. Such employees and other authorized representatives shall be deemed to represent the Commissioner when acting in accordance with their official duties, responsibilities and powers.

2.24 Establishment - Shall mean any facility required to obtain a permit to operate by the Health Department.

2.30 Minor - Shall mean any person under the age of eighteen years.

2.33 Owner – Shall mean any person who holds legal title to an establishment or property which is subject to Health Department regulation.

2.34 Permit - Shall mean written permission issued by the Commissioner allowing the construction and/or operation of a regulated facility.

2.35 Person - Shall mean any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, utility district, or any other legal entity.

2.36 Potable – For water systems where it is determined that 10 NYCRR 5-1 does not apply; potable shall mean water that is suitable and safe for human consumption.

2.45 Sanitary – Shall mean lacking any condition in which any significant amount of filth, trash, or human waste is present in such a manner that a reasonable person would believe that the condition might constitute a health hazard.

2.50 Tattoo - To mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars

SANITARY CODE OF THE CATTARAUGUS COUNTY HEALTH DISTRICT

PART 29 – BODY ART

(Statutory Authority: Public Health Law – PHL §308)

CATTARAUGUS COUNTY DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH DIVISION – BODY ART PROGRAM

SELECTED DEFINITIONS (SCCCHD PART 2)

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2.2 Adequate - Shall mean sufficient to accomplish the purpose intended, and to such a degree that no unreasonable risk is presented to health or safety.

2.3 Applicant - Shall mean the person requesting formal department approval for a planned project or action.

2.4 Autoclave - Shall mean a sterilization apparatus designed for the purpose of inactivation of infective agents.

2.6 Body Art - Shall mean the practice of physical body adornment by permitted establishments/ practitioners using techniques including but not limited to tattooing, cosmetic tattooing, branding, scarification, body piercing, but excluding to piercing the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system. This definition shall not include procedures that constitute the practice of medicine as defined by the New York State Education Department, such as tongue-splitting or implants, which are prohibited.

2.7 Body Art Establishment - Shall mean a location, place, or business that has been granted a permit by the Commissioner where the practices of body art are performed, whether or not for profit.

2.8 Body Art Practitioner - Shall mean a specifically identified individual who has been granted a certificate by the Commissioner to perform body art in an establishment that has been granted a body art establishment permit by the Commissioner.

2.9 Body Art Client – Shall mean any person who requests a body art procedure at a body art establishment.

2.10 Body Art Work Station – Shall mean a clearly defined area within a body establishment where body art is performed.

2.11 Branding – Shall mean a form of body art that involves applying extreme heat to the skin in order to create a burned image or pattern.

2.12 Body Piercing – Shall mean puncturing or penetrating the skin with pre-sterilized needles and the insertion of pre-sterilized jewelry or other adornment into the opening. Such term shall not include tongue-splitting. Additionally, this definition excludes piercing of the ear with a pre-

Please note that this code booklet contains selected, edited excerpts from the Sanitary Code of the Cattaraugus County Health District pertaining to the Health Department’s Body Art Program.

29.4.3.6 Only the body art practitioner and body art client shall be allowed in the body art work station.

29.4.3.7 The owner of a body art establishment shall not allow body art practitioners to practice body art in contradiction to SCCCHD 29.3

29.4.4 RECORDKEEPING

29.4.4.1 The body art establishment shall maintain the following records in a secure place for a minimum of ten years:

- a copy of the signed risk disclosure statement, as provided by the Department, for each procedure performed;
- a copy of acceptable photo identification for each procedure performed;
- a completed copy of the procedure summary, as provided by the Department;
- if the body art client is a minor, a copy the legal guardian consent form, as provided by the Department;
- if the body art client is a minor, a copy of the legal guardian's acceptable photo identification.

Such records shall be maintained in such a manner as to provide readily available access to the Department upon request.

29.4.4.2 The body art establishment shall maintain a copy of the following at all times:

- a Material Safety Data Sheet, when available, for all chemicals onsite, including any inks and dyes;
- a copy of the U.S. OSHA standards contained in 29 CFR 1910.1030, entitled "Regulation (Standards) Blood borne Pathogens";
- a copy of these regulations.

29.1 APPLICABILITY

29.1.1 This part shall apply to the practice of body art and the operation of body art establishments, regardless of whether at a fixed location or a temporary event, with the following exceptions;

29.1.1.1 Individuals who pierce only the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system.

29.1.1.2 Physicians licensed in accordance with New York State Education Law who perform body art procedures as part of patient treatment.

29.2 GENERAL PROVISIONS

29.2.1 AGE RESTRICTIONS

29.2.1.1 In accordance with NYS Penal Law§260.21(2), it is unlawful to apply a tattoo to any person under 18 years of age.

29.2.1.2 It shall be unlawful to brand or scarify any person less than 18 years of age.

29.2.1.3 Body piercing, other than piercing the genitalia, may be performed on a minor, provided that the person is accompanied by a properly identified parent, legal custodial parent, or legal guardian who has signed a form consenting to such procedure.

29.2.1.4 Appropriate identification of identity and age are limited to the following;

- Current driver's license
- U.S. passport,
- Other government issued photo identification
- Original birth certificate

29.2.1.5 It shall be a violation of this Sanitary Code to provide false or misleading information or identification with regard to the age of a body art client or individual parental / custodial rights over a minor.

29.3 BODY ART PRACTICE

29.3.1 CERTIFICATE TO PRACTICE BODY ART

29.3.1.1 It shall be unlawful for any person to practice body art or perform any body art procedure in Cattaraugus County unless such person possesses a valid Certificate to Practice Body Art issued by the Commissioner, pursuant to this Part.

29.3.1.2 It shall be unlawful for any person who possesses a Certificate to Practice Body Art to practice body art except within the confines of a permitted Body Art Establishment. This Certificate to Practice Body Art must be conspicuously posted within the Body Art Establishment.

29.3.1.3 Application for a Certificate to Practice Body Art shall be made on form(s) provided by the Department at least 30 days before the first day of intended operation.

29.3.1.4 Applicants for a Certificate to Practice Body Art shall provide acceptable documentation to the Department of the following;

- age greater than 18,
- completion of a blood borne pathogens training program within the previous year before date of application, acceptable to the Department and compliant with 29 *CFR* 1910.1030. Training program documentation shall be up-to-date.

29.3.1.5 Any application for a Certificate to Practice Body Art may be denied by the Department for serious, repeated, or persistent violations by the applicant of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department the granting of such Certificate would constitute a threat to human health or safety.

29.3.1.6 A Certificate to Practice Body Art shall be valid for one year from the date of issuance, unless suspended or revoked by the permit issuing official.

29.3.1.7 A Certificate to Practice Body Art may be revoked, after due notice and hearing, by the Department for serious,

29.4.3 OPERATIONS STANDARDS

29.4.3.1 The building and equipment shall be maintained in a state of good repair at all times. The body art establishment premises shall be kept clean, neat and free of litter and rubbish.

29.4.3.2 No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities (e.g., seeing-eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.

29.4.3.3 The body art establishment operator shall provide for the disposal of all types of waste products in compliance with 10 NYCRR 70, this Sanitary Code and all applicable federal, state and local regulations. Solid waste shall be stored in covered, leak-proof, rodent-resistant containers and shall be removed from the premises at least weekly.

29.4.3.4 A Body Art Establishment shall provide an autoclave, of a type and design acceptable to the Department, where such establishment uses equipment or supplies that are not solely designed for single use.

- The autoclave shall be used, cleaned and maintained according to manufacturer's instructions. A copy of such instructions shall be available for inspection by the Department.
- The operation of the autoclave will be monitored by spore destruction testing acceptable to the Department. Such monitoring shall be conducted at a frequency determined by the Department.
- In the event of any malfunction of the apparatus, the operator of the body art establishment shall immediately suspend all operations utilizing equipment or supplies sterilized by the autoclave. The operator shall also immediately notify the Department.
- If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave may not be required

29.4.3.5 There shall be no more than one body art client per work station at any time while a body art procedure is being conducted.

29.4.2.10 An adequate amount of clean and sanitary storage space shall be provided for the storage of all instruments and supplies used in the practice of body art.

29.4.2.11 The body art establishment shall have a separate area for the cleaning, and if necessary sterilization, of equipment used in the practice of body art. The placement and design of such area shall be acceptable to the Department. Such area shall contain the following;

- a sink dedicated to the cleaning of equipment,
- an autoclave, if required for sanitary operation,
- an ultrasonic cleaning unit, if required for sanitary operation.

29.4.2.12 Screens shall be installed on all exterior windows and any exterior door that does not have a self-closing mechanism.

29.4.2.13 The body art establishment shall have a customer waiting area, exclusive and separate from any body art work station, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.

29.4.2.14 A body art work station shall conform to the following;

- it shall not be used as a corridor,
- it shall have a minimum of 45 square feet of floor space for each practitioner,
- it shall have a means of screening for those body art clients requesting privacy,
- it shall be separated from adjacent body art work stations by no less than a partition,
- it shall have an adequate amount of work surface
- it shall contain only surfaces constructed of metal or other materials which are smooth, non-absorbent, corrosive-resistant and easily sanitized,
- it shall contain at least one covered, foot operated waste receptacle,
- it shall contain at least one sharps container,
- it shall have a readily accessible sink with hot and cold running potable water under pressure. Such a sink must be equipped with wrist and/or foot-operated controls, supplied with liquid soap and provided with a single service sanitary method of hand drying.

repeated, or persistent violations by the Body Art Practitioner of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department allowing the Body Art Practitioner to continue to practice would constitute a threat to human health or safety.

29.3.1.8 The Department may suspend a Certificate to Practice Body Art, and direct the immediate cessation of body art practice, when in the Department's opinion continued operation is imminent hazard to human health and safety. Any person so directed is to comply immediately and within 15 days shall be provided with an opportunity to be heard and to present proof that continued operation does not constitute a danger to human health or safety.

29.3.2 STANDARDS OF PRACTICE

Body art practitioners and guest body art practitioners are required to comply with the following minimum health standard.

29.3.2.1 A body art practitioner known to have an active communicable disease, who displays signs of such disease, or with suppurating wounds shall not engage in the practice of body art, nor shall such a body art practitioner work in any area of a body art establishment in any capacity in which there is a likelihood that that the person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms. Examples of such communicable diseases may include but are not limited to the acute illness phases of the common cold, influenza, tuberculosis, HIV, syphilis, chicken pox, mumps and hepatitis. Symptoms of such diseases may include but are not limited to sore throat, jaundice of the skin, diarrhea, vomiting, fever, rash, productive cough. The Department may require any body art practitioner found to have any communicable disease or suspected of having such a disease to obtain a certificate signed by a duly licensed physician stating that the person has recovered from and is no longer infectious or is free from a communicable disease before permission to resume operation as a practitioner is granted. Examples of such disease are listed in 10 NYCRR 2.1. Said certificate shall be available for inspection by the Department.

29.3.2.2 A body art practitioner shall perform all body art procedures in accordance with Universal Precautions.

29.3.2.3 A body art practitioner shall not be under the influence of alcohol, drugs or any intoxicant, while practicing body art.

29.3.2.4 A body art practitioner shall refuse service to any person who may be under the influence of alcohol, drugs or any intoxicant, or any person with skin lesions or any communicable disease.

29.3.2.5 A body art practitioner shall refrain from eating, drinking or using tobacco products while practicing body art.

29.3.2.6 No food, drink tobacco product or other items not directly related to the practice of body art shall be present in the work area.

29.3.2.7 Body art practitioners who use ear piercing systems must conform to the manufacturer's directions for use and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the body art client's body other than the ear.

29.3.2.8 Before conducting a body art procedure, the body art practitioner shall require that the body art client read, understand and sign a risk disclosure statement. The risk disclosure statement will be provided by the Department. A copy of this risk disclosure statement shall be provided to the body art client.

29.3.2.9 Before conducting a body art procedure, the body art practitioner shall clean and sanitize the chair, countertops, and any other surfaces that may come in contact with the body art client or body art equipment with a sanitizing agent acceptable to the Department.

29.3.2.10 A body art practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices and wear clean clothes; specifically a clean outer garment when performing body art procedures. Before performing body art procedures and whenever there is a potential for cross-contamination, the practitioner must thoroughly wash his/her hands in hot running potable water with liquid soap and individual hand brush, then rinse hands and dry with disposable paper towels or by mechanical means acceptable to the Department.

29.4.2 DESIGN STANDARDS

29.4.2.1 The Department may require any holder of, or applicant seeking a Permit-to-Operate a Body Art Establishment, to submit floor plans for review in a manner acceptable to the Department.

29.4.2.2 Walls, floors, and ceilings shall be smooth, free of open holes or cracks, light-colored, washable and in good repair. Walls, floors and ceilings shall be maintained in a clean condition.

29.4.2.3 The floor of the body art establishment shall be of impervious material.

29.4.2.4 Floors in the waiting area or other areas used exclusively for administrative tasks may be carpeted.

29.4.2.5 The body art establishment shall have adequate light and adequate ventilation at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

29.4.2.6 The body art establishment shall be separate from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales or any other such activity that may cause potential contamination of work surfaces.

29.4.2.7 All body art establishments shall be supplied with potable water acceptable to and tested at a frequency determined by the Department.

29.4.2.8 There shall be a minimum of one toilet facility available to body art clients containing a toilet and a sink with hot and cold running water. The toilet facility shall be provided with toilet paper, liquid hand soap and a sanitary, single service method of hand drying.

29.4.2.9 At least one janitorial area with a dedicated sink and adequate space for cleaning and sanitary supplies shall be provided in each body art establishment for use in cleaning the establishment.

29.4.1.2 A Permit to Operate a Body Art Establishment shall be valid from the date of issuance and shall automatically expire no longer than one (1) year from the date of issuance unless revoked sooner by the Commissioner.

29.4.1.3 Application for a Permit to Operate a Body Art Establishment shall be made, at least thirty (30) days before the first day of intended operation, on a form available from the Department. An applicant shall submit all information required by the form and accompanying instructions.

29.4.1.4 A Permit to Operate a Body Art Establishment shall not be transferable from one place or person to another.

29.4.1.5 Any application for a Permit to Operate a Body Art Establishment may be denied by the Department for serious, repeated, or persistent violations by the applicant of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department the granting of such Permit would constitute a threat to human health or safety.

29.4.1.6 A Permit to Operate a Body Art Establishment may be revoked, after due notice and hearing, by the Commissioner for serious, repeated, or persistent violations by the person operating the body art establishment of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department allowing the body art establishment to continue to operate would constitute a threat to human health or safety.

29.4.1.7 The Commissioner may suspend a Permit to Operate a Body Art Establishment, and order the immediate closure of the body art establishment when in the Commissioner's opinion its continued operation would constitute an imminent hazard to human health and safety. Any person so ordered is to comply immediately and within 15 days is to be provided with an opportunity to be heard and to present proof that continued operation does not constitute a danger to human health or safety.

29.3.2.11 In performing body art procedures, a body art practitioner shall wear single use, medical grade gloves. Gloves shall be changed if they become pierced, torn or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual body art client, and hands shall be washed in accordance with section 29.3.2.10 before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of single-use gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.

29.3.2.12 Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or sterilized instrument or item before the procedure resumes.

29.3.2.13 Preparation and care of a body art client's skin area must comply with the following:

- Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be performed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, only single-use disposable razors shall be used. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

29.3.2.14 In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single-use, and discarded immediately after use in appropriate covered containers and disposed of in a manner acceptable to the Department and in accordance with all applicable regulations.

29.3.2.15 Before placing the design on the body art client's skin or prior to beginning any body art procedure, the body art practitioner shall treat the skin area with an EPA approved or hospital grade germicidal solution, which shall be applied with sterile cotton or sterile gauze. After application of the

germicidal solution, any product applied to the skin must be sterile and acceptable to the Department. The method by which it is applied must be sanitary and acceptable to the Department.

29.3.2.16 Subsequent to the performance of a body art procedure, the body art practitioner shall complete and sign a procedure summary. The procedure summary form will be provided by the Department. A copy of this procedure summary shall be provided to the body art client.

29.3.2.17 Subsequent to performing a body art procedure, the body art practitioner shall clean and sanitize the chair, countertops, and any other surfaces that may have come in contact with the body art client or body art equipment with a sanitizing agent acceptable to the Department.

29.3.3 SANITATION AND STERILIZATION MEASURES, PROCEDURES AND REQUIREMENTS

29.3.3.1 Single-use items shall not be used on more than one body art client for any reason. After use, all single-use sharps shall be immediately disposed of in sharp approved containers in a manner acceptable to the Department and in accordance with all applicable regulations.

29.3.3.2 All products applied to the skin, including but not limited to body art stencils, applicators, gauze and razors, shall be single-use and disposable.

29.3.3.3 Hollow bore needles or needles with a cannula shall not be reused.

29.3.3.4 All inks, dyes, pigments, solid core needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Only non-toxic dyes and pigments shall be used for tattooing.

29.3.3.5 Water used for the mixing or dilution of inks, dyes or pigments shall be from a Department approved potable source.

29.3.3.6 Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use cups or caps. Upon completion of the

tattoo, these single-use cups or caps and their contents shall be discarded.

29.3.3.7 All non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, to remove blood and tissue residue, and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.

29.3.3.8 After being cleaned, all non-disposable instruments used for body art shall be packed individually in commercially produced sterilizer packs and subsequently sterilized in an autoclave acceptable to the Department.

29.3.3.9 All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored, inside the unopened sterilizer packs, in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

29.3.3.10 Following sterilization, instruments shall be handled and stored in such a manner as to prevent contamination. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

29.3.3.11 When assembling instruments used for body art procedures, the practitioner shall wear disposable medical gloves and use medically recognized standards to ensure that the instruments and gloves are not contaminated.

29.4 BODY ART ESTABLISHMENTS

29.4.1 PERMIT TO OPERATE A BODY ART ESTABLISHMENT

29.4.1.1 It shall be unlawful for any person to operate a body art establishment in Cattaraugus County unless such person possesses a valid Permit to Operate a Body Art Establishment issued by the Commissioner, pursuant to SCCCHD pt 29. This Permit to Operate a Body Art Establishment must be conspicuously posted within the Body Art Establishment.