

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

BOARD OF HEALTH

REGULATIONS GOVERNING BODY ART

Section 1.00 INTRODUCTION

The Board of Health of the City of Lowell, acting under M.G.L. c.111, §31, is promulgating these regulations governing Body Art which provide minimum requirements to be met by any person performing Body Art activities for hire upon another individual and for any establishment wherein Body Art activities are to be performed. These requirements include, but are not limited to, requirements concerning the general sanitation of the establishment wherein Body Art activities are to be performed and the sterilization of instruments to be used in the conduct of Body Art. By enacting these Body Art Regulations, the City of Lowell, acting through its Board of Health, hereby determines that these rules and regulations are necessary to protect the public's health by preventing diseases, including, but not limited to, the transmission of Hepatitis B and/or Human Immunodeficiency Virus (HIV/AIDS).

In addition, these Body Art Regulations establish a requirement for registration and a procedure for the registration with the Health Director of the City of Lowell of all persons performing such Body Art activities, a requirement for minimal training standards for such practitioners including requirements for the prevention of disease transmission and for knowledge of anatomy and physiology. Provisions for the regular inspection of establishments wherein Body Art activities are to be performed and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under these Body Art Regulations, or for other means of enforcement of the provisions of these Body Art Regulations.

These Body Art Regulations provide for an annual fee to be paid by a person and establishment registered under these Body Art Regulations. This fee is intended to help defray the cost to the City of Lowell of the administration of the requirements of these Body Art Regulations.

Section 2.00 ADMINISTRATION AND ENFORCEMENT

These Body Art Regulations shall be administered and enforced by the Board of Health of the City of Lowell established pursuant to M.G.L., c.111, §26, as amended by Special Acts. Other officials of the City of Lowell with authority to enforce these Body Art Regulations shall be the Health Director and all Agents of the Lowell Board of Health as so designated under M.G.L., c.111, §30 and other applicable regulations.

Section 3.00 **DEFINITIONS**

The following terms used in this chapter, unless the context otherwise requires, shall have the following meaning:

- Section 3.01 Aftercare Instructions** shall mean written instructions, approved by the Department, given to a person upon whom one or more Body Art activities have been performed, specific to the Body Art procedure(s) 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.
- Section 3.02 Antiseptic** shall mean an agent that destroys disease-causing microorganisms on human skin or mucosa.
- Section 3.03 Autoclave** shall mean an apparatus for sterilization utilizing steam pressure at specific temperature over a designated period of time.
- Section 3.04 Autoclaving** shall mean the process which results in the destruction of all forms of microbial life – including highly resistant bacterial spores - by the use of an Autoclave for a minimum of thirty (30) minutes at 17 pounds of pressure (PSI) at a temperature of 270° Fahrenheit.
- Section 3.05 Body Art Or Body Art Activities** shall mean the practice of physical body adornment, alteration or modification by means including, but not limited to, piercing, tattooing, branding, braiding, beading/implantation or scarring.
- Section 3.06 Body Art Establishment** shall mean any facility that has been inspected and approved by the Department for use in conducting of Body Art activities and for which a current license is issued by the Department in accordance with these Body Art Regulations.
- Section 3.07 Body Art Regulation** shall mean these Regulations governing Body Art as adopted by the Lowell Board of Health, and as amended from time to time.
- Section 3.08 Body Art Practitioner** shall mean a person who has received a License to perform Body Art activities by the Department pursuant to these Body Art Regulations.
- Section 3.09 Body Art Practitioner License** shall mean a License issued by the Department to a person qualified to engage in the practice of Body Art in accordance with these Body Art Regulations.

- Section 3.10** **Body Piercing** shall refer to the form of Body Art requiring or consisting of the puncturing or penetration of the skin or of a membrane of a person for the purpose of the temporary or permanent placement or insertion of jewelry or other adornment or device therein.
- Section 3.11** **Braiding** shall refer to the form of Body Art requiring or consisting of the cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.
- Section 3.12** **Branding** shall refer to the form of Body Art consisting of or requiring the inducement of a burn and/or the resulting scarring of the skin of a person by means of the use of a heated instrument or object.
- Section 3.13** **Cleaning Area** shall mean the area in a Body Art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of Body Art.
- Section 3.14** **Contaminated or Contamination** shall refer to the presence of or a reasonable possibility of the presence of blood, bodily fluids, infectious or potentially infectious matter on an inanimate object.
- Section 3.15** **Contaminated waste** shall mean any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials, as defined in 29 Code of Federal Regulation part 1910.1030, as defined in 105 Code of Massachusetts Regulation 480.00 *et seq*, or in these Body Art Regulations.
- Section 3.16** **Cosmetic Tattooing**, also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, shall refer to the form of Body Art requiring the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.
- Section 3.17** **Customer or Client** shall mean a person upon whom one or more Body Art activities is/are to be performed, and shall include a Minor Client.
- Section 3.18** **Customer Waiting Area** shall mean the area in a Body Art establishment for use and occupation by persons and clients prior to and after the conduct of Body Art.
- Section 3.19** **Department** shall mean the Lowell Health Department or the Lowell Board of Health, established in accordance with M.G.L., c.111, § 26,

as amended. The word "Board" when used shall also mean the Lowell Board of Health.

- Section 3.20 Disinfect** shall mean the destruction of pathogenic microorganisms using a Liquid Chemical Germicide.
- Section 3.21 Disinfectant** shall mean the same a Liquid Chemical Germicide.
- Section 3.22 Dermis** shall mean the deeper, thicker portion on the skin lying beneath the epidermis, to include the subcutaneous layer.
- Section 3.23 Ear Piercing** shall mean the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers instructions.
- Section 3.24 Epidermis** shall mean the outer layer of skin which is composed of four recognizable layers of cells usually a total of about 0.1 mm thick.
- Section 3.25 Equipment** shall mean all machinery, fixtures, containers, vessels, tools, devices, implements, furniture, display cases, storage units, sinks, and all other apparatus and appurtenances used in connection with the operation of a Body art establishment.
- Section 3.26 Exposure** shall mean an event whereby there is an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.
- Section 3.27 Exposure Control Plan** shall mean a plan drafted by an Operator pursuant to the requirements of the U.S. Occupational Safety and Health Administration to eliminate or minimize the potential for an Exposure.
- Section 3.28 Exposure Incident Report** shall mean a written report detailing the circumstances of an Exposure.
- Section 3.29 Germicide or Germicidal Solution** shall mean the same as Liquid Chemical Germicide.
- Section 3.30 Hand Sink** shall mean a sink supplied with hot and cold potable water under pressure which is used solely for washing hands, arms, or other portions of the body.
- Section 3.31 Health Director** shall mean the Health Director of the City of Lowell.

- Section 3.32** **Hot Water** shall mean water which is heated to attain and maintain a temperature of between 110° and 130° F.
- Section 3.33** **Infectious Waste** shall mean the same as Contaminated Waste.
- Section 3.34** **Instrument Storage Area** shall mean the area in a Body Art establishment used for the storage of linens, equipment and instruments used for Body Art.
- Section 3.35** **Instrument or Instrument Used for Body Art** shall mean those hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or possible exposure to bodily fluids during Body Art procedures.
- Section 3.36** **Invasive** shall describe a procedure causing entry into the body either by incision or by the insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.
- Section 3.37** **Jewelry** shall mean any device or adornment inserted into a pierced or incised area or portion of the body.
- Section 3.38** **License** shall mean a document issued by the Department pursuant to these Body Art Regulations authorizing a person to conduct allowed Body Art procedures in the City of Lowell.
- Section 3.39** **Liquid Chemical Germicide** shall mean a substance registered with the United States Environmental Protection Agency for use in the destruction of pathogenic microorganisms or an approximate 1:100 dilution of household chlorine bleach in clean water mixed fresh daily.
- Section 3.40** **Minor or Minor Client** shall mean a person of less than 18 years of age as of that person's last birth date.
- Section 3.41** **Mobile Body Art Establishment** shall mean any trailer, truck, car, van, camper or other motorized or non-motorized vehicle, a shed, tent, movable structure, bar, home, or other facility wherein, or concert, fair, party or other event whereat one desires to or actually does conduct Body Art procedures, excepting only a Licensed Body Art Establishment.
- Section 3.42** **Operator** shall mean any person alone or jointly with other persons who owns, controls, operates or manages a Body Art establishment.
- Section 3.43** **Parenteral** shall mean the invasion of the skin barrier or mucous membranes.

- Section 3.44 Permit** shall mean a document issued by the Department pursuant to these Body Art Regulations authorizing the use of a facility for the conducting of Body Art activities. The term license is also used in these regulations shall have the same meaning with respect to facilities used as Body Art Establishments.
- Section 3.45 Physician** shall mean a person licensed by the Commonwealth of Massachusetts in accordance with M.G.L., c. 112, §2.
- Section 3.46 Procedure Surface** shall mean any surface of an inanimate object that contacts an unclothed part of a person upon whom body art is to be performed.
- Section 3.47 Prohibited Forms of Body Art** shall refer to those forms of Body Art prohibited under these Body Art regulations and set forth in section 18.00.
- Section 3.48 Sanitize** shall mean the process of reducing the number of microorganisms on a surface to a safe level using a Liquid Chemical Germicide.
- Section 3.49 Sanitizer** shall mean the same as Liquid Chemical Germicide.
- Section 3.50 Scarification** shall refer to that form of Body Art that requires the use of an instrument to cut a design into the skin to produce a scar. It shall also include the controlling of the body's healing process in order to produce wounds which result in permanently raised wheals, known as keloids, on skin.
- Section 3.51 Sharps** shall mean any object (sterile or not) that may purposefully or accidentally cut or penetrate the skin or mucosa of a person including, but not limited to, needles, scalpel blades, razor blades, glass and lancets.
- Section 3.52 Sharps Container** shall mean a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation or disposal and is labeled with the International Biohazard Symbol.
- Section 3.53 Single Use** shall mean products or items that are intended for one-time, one-person use and are to be disposed of after such use including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.
- Section 3.54 Sterilization Unit** shall mean a unit designed to and which is effective at killing all microorganisms, including bacterial spores and

which is approved by the Department for use for sterilization in a Body Art Establishment.

- Section 3.55 Sterilize** shall mean to effectively kill all microorganisms, including bacterial spores.
- Section 3.56 Tattoo** shall refer to the form of Body Art consisting of the injection of ink, dye or other medium to form or create an indelible mark, figure or decorative design in the subcutaneous portion of the skin.
- Section 3.57 Tattooing** shall mean the act or process of creating a tattoo.
- Section 3.58 Tattoo Gun** shall mean an electric, vertically vibrating tool used for tattooing.
- Section 3.59 Tattoo Inks/Pigments/Dyes or Inks/Pigments/Dyes** shall mean the metal or salt-based substance injected into the subcutaneous portion of the skin in the act or process of creating a tattoo.
- Section 3.60 Temporary Body Art Establishment** shall mean the same as Mobile Body Art Establishment.
- Section 3.61 Three Dimensional "3D" Body Art or Beading or Implantation** shall refer to the form of Body Art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. This term does not include Body Piercing.
- Section 3.62 Ultrasonic Cleaning Unit** shall mean a unit approved by the Department and physically large enough to fully submerge Instruments in liquid, which unit removes all foreign matter from the Instruments by means of high frequency oscillations transmitted through the contained liquid.
- Section 3.63 Universal Precautions or Standard Precautions** shall mean the set of guidelines and controls published by the Center for Disease Control as "Guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers" in Morbidity and Mortality Weekly Report by the Center for Disease Control (CDC) June 23, 1989, Vol. 38, NO. S-6, and as "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures" in Morbidity and Mortality Weekly Report July 12, 1991, Vol. 40, No. RR-8, each as amended or updated. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens.

Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

Section 3.64 Workstation shall mean an area within a Body Art Facility designated for use in the conducting of Body Art activities.

Section 4.00 SEVERABILITY

If any provision or subpart thereof contained in these Body Art Regulations is found to be invalid or unconstitutional by a court of competent jurisdiction, the validity of all remaining provisions or subpart thereof shall not be so affected but shall remain in full force and effect.

Section 5.00 THE PRACTICE OF BODY ART – BODY ART PRACTITIONER LICENSE REQUIRED

No person shall conduct any form of Body Art activity unless such person holds a valid Body Art Practitioner License issued by the Department pursuant to these Body Art Regulations.

Section 6.00 BODY ART FACILITY – BODY ART ESTABLISHMENT – PERMIT REQUIRED

No person shall establish a facility for the conduct of a business consisting of or including the performance of one or more Body Art activities upon the person of another without a valid Permit to operate such facility as a venue within which to conduct Body Art activities issued by the Department in accordance with these Body Art Regulations.

Section 7.00 EXEMPTIONS

- (a) Physicians who practice Body Art activities as part of patient treatment are exempt from the provisions of these Body Art Regulations so long as such Body Art activities are performed in a medically acceptable manner.
- (b) Individuals who pierce only the lobe of the ear with a pre-sterilized, single-use stud and clasp ear piercing system without the use of a so-called piercing gun, are exempt from the provisions of these Body Art Regulations.

Section 8.00 CITY CLERK – REGISTRATION

The requirements of these Body Art Regulations to obtain a Body Art Practitioner License and a Body Art Facility License are separate from, and in addition to, the requirements of M.G.L., c.110, §5.

Section 9.00 COMMONWEALTH OF MASSACHUSETTS - REGISTRATION OR LICENSING

The requirements of these Body Art Regulations to obtain a Body Art Practitioner License and/or a Body Art Facility Permit are separate from and in addition to any similar requirements that may be mandated by the Commonwealth of Massachusetts.

Section 10.00 BODY ART PRACTITIONER

- Section 10.01 Application–Registration–Body Art Practitioner License**
- Section 10.02 Body Art Practitioner License – Compliance with Minimal Training Requirements**
- Section 10.03 Hepatitis B Vaccination Status – Disclosure**
- Section 10.04 Hygiene**
- Section 10.05 Minimal Educational Requirements**
- Section 10.06 Blood-Borne Pathogen Training Course – Content**
- Section 10.07 Body Art Practitioner License – Consent to Comply with Body Art Regulations**
- Section 10.08 Body Art Practitioner License – Department Authorized to Issue**
- Section 10.09 Body Art Practitioner License – Acting Within Scope of License**
- Section 10.10 Body Art Practitioner License – Posting Requirement**
- Section 10.11 Body Art Practitioner License – Impairment by Drugs or Alcohol**
- Section 10.12 Restriction of Certain Body art Activities**
- Section 10.13 Sterile Conditions**
- Section 10.14 Rash, Lesion, or Visible Sign of Infection**
- Section 10.15 Use of Licensed Facility**
- Section 10.16 Body Art Practitioner – Use of Mobile or Temporary Body Art Establishment – Prohibited**

Section 10.01 Application – Registration – Body Art Practitioner License

Any person seeking registration under these Body Art Regulations so as to obtain a Body Art Practitioner License shall submit a completed application provided by the Department and shall pay to the City of Lowell a fee of \$250. A Body Art Practitioner License shall be valid for no more than one year. The Department may renew a Body Art Practitioner License under these Body Art Regulations and each applicant for such renewal shall pay to the City of Lowell a renewal fee of \$250. All Body Art Practitioner Licenses shall expire on December 31 of the year of issuance.

Section 10.02 Application – Body Art Practitioner License – Compliance with Body Art Regulations Requirements

An applicant for a Body Art Practitioner License shall demonstrate to the Department his/her successful compliance with all training, disclosure, consent and educational requirements of these Body Art Regulations relative to the form of Body Art activities

for which such applicant seeks a Body Art Practitioner License prior to the issuance or renewal of a Body Art Practitioner License by the Department.

Section 10.03 Hepatitis B Vaccination Status – Disclosure

- (a) A Hepatitis B Vaccination is highly recommended;
- (b) An applicant for a Body Art Practitioner License shall provide to the Department, and shall provide to the owner of any Body Art Establishment in which the applicant intends to perform or in which he does perform Body Art activity, valid documentation of his Hepatitis B Virus (HBV) vaccination status stating:
 - (a) Certification of completed vaccination;
 - (b) Laboratory evidence of immunity;
 - (c) Documentation stating the vaccine is contraindicated for medical reasons. Contraindication requires a dated and signed licensed health care professional's statement specifying the name of the Body Art Practitioner License applicant employee and that the vaccine cannot be given; or
 - (d) Certificate of vaccination declination of HBV, i.e., for medical or religious reasons as provided in M.G.L., c.76, §15.

Section 10.04 Hygiene

Every Body Art Practitioner shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when conducting Body Art activity. If the clothes of a Body Art Practitioner are or become contaminated, clean clothing shall be donned prior to commencement of any further Body Art activity.

Section 10.05 Minimal Training Requirements

Every applicant for a Body Art Practitioner License or a renewal of a Body Art Practitioner License, in order to be qualified for such License, shall provide to the Department evidence of satisfaction of the following minimal training requirements:

- (1) For a Body Art Practitioner License enabling one to perform Body Piercing, the completion of a complete course in Anatomy and Physiology (i.e., Anatomy & Physiology I & II) with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course work must include instruction on the systems of the integumentary system (skin).
- (2) For a Body Art Practitioner License that enables one to perform Tattooing, Branding or Scarification, but not Body Piercing, the successful completion

of a complete course in Anatomy and Physiology (i.e., Anatomy & Physiology I & II) with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course work must include instruction on the systems of the integumentary system (skin). Such other course of program as the Department shall deem appropriate and acceptable may be substituted for the course in anatomy & physiology otherwise required of an applicant for a Body Art Practitioner License that enables one to perform Tattooing, Branding and Scarification, but not Body Piercing.

- (3) For all Body Art Practitioners, the successful completion of a course on Prevention of Disease Transmission and Blood-borne pathogens taught by an instructor trained and sufficiently knowledgeable to teach this OSHA course. Such knowledge shall include the requirements of 29 CFR 19010.1030.
- (4) Current certification in American Red Cross Basic First Aid or its equivalent and Advanced Cardio-Pulmonary Resuscitation.
- (5)
 - (a) Evidence satisfactory to the Department of at least two years actual experience in the practice of performing Body Art activities of the kind of which the applicant seeks a Body Art Practitioner License to perform, whether such experience was obtained within or outside of the Commonwealth; or
 - (b) Evidence of a completed apprenticeship program as approved by the Commonwealth of Massachusetts or the Department, with instruction in the kind of Body Art for which the applicant seeks a Body Art Practitioner License to perform.

Section 10.06 Blood-Borne Pathogen Training Course – Content

Any course taken by an applicant to fulfill the requirements set forth in these Body Art Regulations concerning exposure control and blood-borne pathogen training shall meet the requirements of 29 United States Code 1910.1030 *et seq*, as amended from time to time, and at a minimum, shall provide instruction in the following subject matter:

- (a)
 - (1) A general explanation of the epidemiology and symptoms of blood-borne diseases and all communicable diseases potentially transmitted through Body Art activity;
 - (2) An explanation of the modes of transmission of blood-borne pathogens and other communicable diseases potentially transmitted through Body Art activity;

- (3) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood for the Body Art Practitioner and/or the client/recipient;
 - (4) An explanation of the use and limitations of methods that will prevent or reduce exposure to the Body Art Practitioner and/or the client/recipient of blood-borne pathogens and other communicable diseases;
 - (5) Information on different types, proper use and removal of gloves and proper hand washing techniques;
 - (6) Information on the proper selection and use of Autoclaveants and Antiseptics;
 - (7) Information on the HBV vaccine, including information on its efficacy, safety, method of administration, and the benefits of vaccination against HBV;
 - (8) An explanation of what constitutes an exposure incident, the risk of disease transmission following an exposure incident, and the options for post-exposure evaluation and follow-up if an exposure incident occurs involving blood-borne pathogens; and
 - (9) An opportunity for interactive questions and answers with the instructor of the training session.
- (b) Upon conclusion of a course as described above, an examination based on the information covered in the course shall be administered to each attendee of the course by the entity administering the course, with documentation of the results for each attendee provided to him or her. The Body Art Practitioner License applicant shall provide the results of such examination to the Department.

Section 10.07 Body Art Practitioner License- Consent to Comply with Body Art Regulations

An applicant for a Body Art Practitioner License shall sign a statement provided by the Department consenting to and agreeing to abide by all of the provision of these Body Art Regulations.

Section 10.08 Body Art Practitioner License – Department Authorized to Issue

- (1) If an applicant for a Body Art Practitioner License demonstrates compliance with section 10.05(1) and all other provisions of section 10 *et. seq.* of these Body Art Regulations, excepting only section 10.05(2), then the Department is hereby authorized to issue a Body Art Practitioner License pursuant to the

provisions of these Body Art Regulations which authorizes the applicant to conduct Body Art activities authorized by these Regulations.

- (2) If an applicant for a Body Art Practitioner License does not demonstrate compliance with section 10.05(1) of these Body Art Regulations, but does demonstrate compliance with section 10.05(2) and with all other provisions of section 10.00 of these Body Art Regulations, then the Department is hereby authorized to issue a Body Art Practitioner License pursuant to the provisions of these Body Art Regulations that authorizes the applicant to conduct Body Art activities consisting only of Tattooing, Branding, and Scarification.

Section 10.09 Body Art Practitioner License – Acting Within Scope of License

A Body Art Practitioner shall only perform those forms of Body Art for which he/she holds a Body Art Practitioner License issued by the Department.

Section 10.10 Body Art Practitioner License – Posting Requirement

A Body Art Practitioner and/or Operator shall post in an area of the Body Art Establishment, accessible to the Department and to Clients, the original of the current Body Art Practitioner License of the Body Art Practitioner.

Section 10.11 Body Art Practitioner – Impairment by Drugs or Alcohol

No Body Art Practitioner shall conduct any form of Body Art activity while under the influence of alcohol or drugs.

Section 10.12 Restriction of Certain Body Art Activities

No Body Art Practitioner shall:

- (1) Tattoo a Minor Client;
- (2) Brand or perform branding, braiding, beading or implantation upon any Client;
- (3) Scar or perform Scarification upon any Client;
- (4) Body pierce the genitalia of any Client;
- (5) Body pierce a Client under 14 years of age – with the sole exception of Ear Piercing; or
- (6) Perform or engage in any of the activities prohibited under all parts of section 18.00 of these Body Art Regulations.

The prohibitions contained in this section are a supplement to, and not a substitute for, the prohibitions contained in all parts of Section 18.00 of the Body Art Regulations.

Section 10.13 Sterile Conditions

A Body Art Practitioner shall only conduct Body Art activities under sterile conditions.

Section 10.14 Rash, Lesion, or Visible Sign of Infection

The skin of a Body Art Practitioner shall be free of rash, any lesion or visible sign of infection. A Body Art Practitioner shall not conduct any form of Body Art activity upon any area of a Client that evidences the presence of any rash, lesion or visible sign of infection.

Section 10.15 Use of Licensed Facility

A Body Art Practitioner shall only conduct Body Art activities within a facility with a current Body Art Establishment Permit, and which Establishment is in compliance with all provisions of the Body Art Regulations.

Section 10.16 Body Art Practitioner – Use of Mobile or Temporary Body Art Establishment – Prohibited

No Body Art Practitioner shall conduct any form of Body Art activity in a Mobile or Temporary Body Art Establishment.

Section 11.00 APPRENTICESHIP PROGRAM

Section 11.01 Apprenticeship Program – Health Director – Authorized to Establish

Section 11.02 Compliance with these Body Art Regulations

Section 11.03 Definitions

Section 11.04 Apprenticeship Program – Minimum Requirements

Section 11.05 Apprenticeship Program – Department Authorized to Issue

Section 11.01 Apprenticeship Program – Health Director –Authorized to Establish

The Lowell Board of Health, pursuant to, and in accordance with, the authority to promulgate rules and regulations for the protection of the public health granted in M.G.L., c.111, §31, hereby establishes a Body Art Practitioner License Apprenticeship Program.

Section 11.02 Compliance with these Body Art Regulations

Any Body Art Practitioner License Apprenticeship Program established under the authority of section 11.01 of these Body Art Regulations shall require that all participants in such program adhere to and abide by all relevant provisions of these Body Art Regulations excepting only section 10.05 and 10.06.

Section 11.03 Definition

For the purposes Section 11.02 of these Body Art Regulations and, where the context so requires, for purposes of the Body Art Practitioner License Apprenticeship Program established by the Department pursuant to Section 11.01 of these Body Art Regulations, the term "Body Art Practitioner" shall mean "Body Art Practitioner Apprentice," and the term "Body Art Practitioner License" shall mean "Body Art Practitioner Apprentice License."

Section 11.04 Apprenticeship Program – Minimum Requirements

As a minimum requirement of the Body Art Practitioner License Apprenticeship Program established by the Department, the Department shall require that each participant in such program shall be required to complete the requirements of Section 10.05(1) through (4) inclusive and 10.06 of these Body Art Regulations prior to a participant in such program conducting any form of Body Art activity upon a Client or the person of another.

Section 11.05 Body Art Practitioner Apprentice License – Department Authorized to Issue

The Department is hereby authorized to issue a Body Art Practitioner Apprentice License to participants in the Body Art Practitioner License Apprenticeship Program established pursuant to Section 11.01 of these Body Art Regulations, provided each such participant qualifies for the same, pursuant to the provisions of these Body Art Regulations and the Body Art Practitioner License Apprenticeship Program.

Section 12.00 CLIENTS – NOTICE AND CONSENT

- (a) Before a person acting under a Body Art Practitioner Apprentice License conducts any form of Body Art activity upon a Client, that Client shall be advised that the person to conduct such Body Art activity is, in fact, an apprentice and is acting only under a Body Art Practitioner Apprentice License;
- (b) Before a person acting under a Body Art Practitioner Apprentice License conducts any form of Body Art activity upon a Client, such person must obtain the Client's written consent. This written consent shall be physically affixed to the Application and Consent Form for Body Art Activity required pursuant to section 13.02 of these Body Art Regulations and such written consent shall be maintained therewith.

Section 13.00 CUSTOMERS/CLIENTS

- Section 13.01 Application and Consent Form for Body Art Activity – Requirement**
- Section 13.02 Application and Consent Form for Body Art Activity – Content**
- Section 13.03 Disclosure of Certain Health Related Information**
- Section 13.04 Impairment by Drugs or Alcohol**
- Section 13.05 Aftercare Instructions – Requirement**
- Section 13.06 Aftercare Instructions – Minimum Content**
- Section 13.07 Age Restriction for Certain Body Art Activities**
- Section 13.08 Rash, Lesion, or Visible Sign of Infection**

Section 13.01 Application and Consent Form for Body Art Activity – Requirement

Every Client shall complete an application and consent form approved by the Department prior to having any Body Art activity performed upon or to their body.

Section 13.02 Application and Consent Form for Body Art Activity - Content

Every application and consent form, required by Section 13.01 of these Body Art Regulations, shall contain a minimum of the following:

- (a) General information regarding Body Art, including, at a minimum, the following statements:
 - (1) Tattoos should be considered permanent, and
 - (2) The removal of Tattoos and Scars would require surgery or other medical procedure that may result in scarring or additional scarring of the skin.
- (b) Information as to the side effects of Body Art, including, but not limited to, hypertrophic scarring, possible adverse reaction to ink/dye/pigment, possible change in color of ink/dye/pigment over time, a decreased ability of physician to locate skin melanoma in regions concealed by Tattoos, Brands, Scars and other forms of Body Art, possible nerve damage, febrile illness, tetanus, systemic infection, and keloid formation;
- (c) Client information, including:
 - (1) Name;
 - (2) Age and valid identification;
 - (3) In the case of a Minor Client, for any procedure authorized under these Body Art Regulations, the Parent's or legal Guardian's name

proof of parentage or legal guardianship through a copy of a birth certificate or court order of guardianship respectively, or notarized document signed by the parent or legal guardian attesting to the parent's or legal guardian's relationship to the Minor Client, and the consent to conduct of the contemplated Body Art activity upon the Minor Client; and

- (4) The type of Body Art activity to be performed.
- (d) Instructions requiring the Client to adhere to the Exposure Control Plan as such Plan relates to the Client's conduct in the Body Art Establishment;
- (e) The address and phone number of the Department and instructions for the Client, or in the case of a Minor Client – the Minor Client and his/her Parent or Legal Guardian, to contact the Department with any questions or concerns regarding safety, sanitization or sterilization procedures;
- (f) The name of the Body Art Practitioner who is to conduct the Body Art upon the Client of Minor Client and that Practitioner's Department registration number;
- (g) The manufacturer codes, if any, the identity of the manufacturer, and lot numbers of any Dye/Ink or Pigment to be used in the Body Art activity;
- (h) Signature of Client;
- (i) In the case of a Minor Client, the signature of Client's parent or legal guardian. The parent or legal guardian shall sign the consent form in the presence of the Body Art Practitioner;
- (j) The signature of Body Art Practitioner;
- (k) The date(s) of all signature(s); and,
- (l) The date(s) of the Body Art procedure, including a daily estimate of progress for the conduct of Body Art requiring multiple days to complete.

Section 13.03 Disclosure of Certain Health Related Information

- (a) A Client shall inform the Body Art Practitioner of any known chronic medical or conditions, as required under Section 17.01 of these Body Art Regulations.
- (b) A Client shall inform the Body Art Practitioner of a known pregnancy or possibility of pregnancy; and
- (c) The Body Art Practitioner shall require the Client to sign the confirmation and consent form specified in Section 17.01 of these Body Art Regulations.

Section 13.04 Impairment by Drugs or Alcohol

No person who is under the influence of drugs or alcohol shall receive any form of Body Art activity.

Section 13.05 Aftercare Instructions

All Clients shall obtain, read and follow the Department-approved Aftercare instructions appropriate for the form of Body Art conducted upon such person.

Section 13.06 Aftercare Instructions – Minimum Content

Aftercare Instructions shall be approved by the Department and shall include, at a minimum, the following:

- (1) Responsibilities and proper care following the procedure;
- (2) Restrictions, if any, upon the client;
- (3) Signs and symptoms of infection;
- (4) Instructions for Client to contact a physician if possible signs of infection occur; and
- (5) Instructions for Client to also notify Department if infection occurs.

Section 13.07 Age Restrictions for Certain Body Art Activities

- (1) No Minor Client shall receive a Tattoo;
- (2) No Minor Client shall be Branded;
- (3) No Minor Client shall be Scarred;
- (4) No Minor Client shall have his or her genitalia pierced; and
- (5) No Client under 14 years of age shall be pierced, with the sole exception of Ear Piercing.

Section 13.08 Rash, Lesion or Visible Signs of Infection

The skin area or mucosa of a Client to receive any form of Body Art activity shall be free of rash, any lesion or from any visible sign of infection.

Section 14 BODY ART ESTABLISHMENTS

Section 14.01	Application–Registration–Body Art Establishment License
Section 14.02	Business Activity
Section 14.03	Plans
Section 14.04	Workstation
Section 14.05	Separate Areas
Section 14.06	Walls-Floors-Ceilings
Section 14.07	Electrical Wiring
Section 14.08	Lighting and Ventilation
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Section 14.10	Toilet Rooms
Section 14.11	Hand Washing Sinks
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Section 14.14	Exposure Control Plan – Requirement
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Section 14.16	Telephone Access – Emergency Communication
Section 14.17	Body Art Establishment – Other Activities- Restrictions
Section 14.18	Body Art Establishment–License–Department Authorized to Issue
Section 14.19	Body Art Establishment – Posting Requirements
Section 14.20	Mobile or Temporary Body Art Establishment
Section 14.21	Health of Body Art Establishment Employees

Section 14.01 Application – Registration - Body Art Establishment License

Any person seeking registration under these Body Art Regulations so as to obtain a Body Art Facility License shall submit a completed application provided by the Department and shall pay to the City of Lowell a fee of \$250. A Body Art Establishment License shall be valid for no more than one year. The Department may renew a Body Art Facility License under these Body Art Regulations and each applicant for such renewal shall pay to the City of Lowell a renewal fee of \$250. All Body Art Facility Licenses shall expire on December 31 of the year of issuance.

Section 14.02 Business Activity

The establishment or operation of a Body Art Establishment and/or the conduct of any Body Art activities are hereby deemed to be business activities for the purposes of the Table of Use Regulations under City of Lowell Zoning Code Section 31-32.4.m.

Section 14.03 Plans

Every Operator or applicant for a Body Art Establishment License shall submit to the Department scaled plans and specifications of the proposed facility wherein any Body Art activity is intended to be conducted demonstrating the compliance of the facility

with these Body Art Regulations. The Department may require an on-sight inspection of the proposed facility to determine and/or ensure compliance with the requirements of these Body Art Regulations prior to the issuance by the Department of a Body Art Establishment License pursuant to these Body Art Regulations.

Section 14.04 Workstations

- (a) Every Workstation shall have minimum of 60 square feet;
- (b) Each Body Art Establishment shall have at least one Workstation;
- (c) The area within each Workstation shall be completely screened from view from any person outside such Workstation;
- (d) A Workstation shall be used for no other purpose;
- (e) Each Workstation shall be separated from any other area of the Body Art Facility, including other Workstations within such Body Art Facility, by a wall or other solid barrier extending from the floor to a minimum height of 8 feet; and
- (f) A Workstation shall be maintained in a clean and sterile condition.

Section 14.05 Separate Areas

- (a) Every Body Art Establishment shall have therein a Cleaning Area. Every Cleaning Area shall have an area for the placement and use of an Autoclave or other Sterilization Unit located or positioned so as to be a minimum of 36 inches from a required Ultrasonic Cleaning Unit;
- (b) Every Body Art Establishment shall have therein an Instrument Storage Area exclusive of the Cleaning Area. The Instrument Storage Area shall be equipped with cabinets for the storage of all Instruments and Equipment. The required cabinets shall be located a sufficient distance from the Cleaning Area so as to prevent Contamination of the Instruments and Equipment stored therein; and
- (c) Every Body Art Establishment shall have therein a Customer Waiting Area exclusive of, and separate from, any Workstation, Instrument Storage Area or Cleaning Area.

Section 14.06 Walls – Floors – Ceilings

- (a) Every Workstation, Instrument Storage Area, Toilet Room, and Cleaning Area shall be constructed and maintained as follows so as to provide a durable, smooth, nonabsorbent and washable surface:

- (1) Floors – constructed of commercially rated continuous sheet vinyl, smooth sealed cement, ceramic tile with sealed grout, or other similar materials approved by the Department and shall be maintained in good repair free of any holes or cracks;
 - (2) Walls – covered with a semi-gloss or gloss enamel paint, or constructed of fiberglass reinforced panel, ceramic tile with sealed grout or other similar materials approved by the Department and shall be maintained in good repair, free of any holes or cracks; and
 - (3) Ceiling – covered with semi-gloss or gloss enamel paint, or approved commercially rated panels or tiles and maintained in good repair, free of any holes, cracks or falling matter.
- (b) All such floors, walls and ceilings shall be light-colored. For purposes of these Body Art Regulations, “light-colored” shall mean a light reflectance value of 70 percent or greater.

Section 14.07 Electrical Wiring

- (a) All electrical wiring shall be installed and maintained in accordance with the state and local wiring codes;
- (b) All electrical outlets in all Workstations and Cleaning Areas shall be equipped with approved Ground Fault (GFCI) protected receptacles.

Section 14.08 Lighting and Ventilation

- (a) Every Workstation shall be well ventilated and have a minimum light service maintained at all times during the conducting of Body Art Activities at an equivalent of not less than 20 foot candles as measured 36 inches above the floor, except that a minimum of 100 foot candles shall be provided on the area of the Client’s body subject to the conduct of Body Art, in any area where Instruments or Sharps are assembled, and all Cleaning Areas;
- (b) Every Workstation, Cleaning Area and every area in a Body Art Establishment where linens, Instruments, Sharps or other equipment exposed, sanitized or sterilized shall be equipped exclusively with readily cleanable light fixtures with light bulbs, lenses or globes of shatterproof material.

Section 14.09 Plumbing

- (a) All plumbing and plumbing fixtures shall be installed in compliance with local plumbing codes;

- (b) To the extent permitted by applicable federal, state and local laws and ordinances, all liquid wastes shall be discharged through the plumbing system into the public sewerage system or into a Department-approved private sewage disposal system;
- (c) An adequate pressurized potable water supply shall be provided to every Body Art Establishment; and
- (d) The public water supply entering a Body Art Establishment shall be protected by a testable, reduced pressure back flow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.

Sections 14.10 Toilet Rooms

- (a) Every Body Art Establishment shall provide toilet rooms, with adequate lighting and ventilation to the outside for use by employees and Clients, which shall be available to Clients during business hours;
- (b) The number and construction of toilet rooms shall be in accordance with local building and plumbing codes;
- (c) Every water closet or toilet stall shall be enclosed and have a well-fitting, self-closing door;
- (d) An adequate supply of toilet tissue shall be provided in a permanently installed dispenser in each water close or toilet stall;
- (e) Toilet rooms shall not be used for the storage of Instruments or other supplies used for Body Art activity; and
- (f) A Body Art Establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such Body Art Establishment if Department-approved toilet facilities are located in the retail shopping center within 300 feet of the Body Art Establishment so as to be readily accessible to any Client or Body Art Practitioner.

Section 14.11 Hand Washing Sinks

- (a) A Hand Washing Sink shall be provided within or adjacent to any toilet room and in each Workstation;
- (b) Every Hand Washing Sink shall be equipped with an adequate supply of hot and cold water under pressure with fixtures to allow for washing of hands, liquids hand cleanser, single-use sanitary towels in devices for dispensing, and a waste container of washable construction; and

- (c) A Hand Washing Sink shall not be used as a Janitorial Sink.

Section 14.12 Janitorial Sink

At least one janitorial sink shall be provided in every Body Art Establishment for use in cleaning the Body Art Establishment and proper disposal of liquid wastes in accordance with all applicable Federal, state and local laws. For purposes of these Body Art Regulations, a janitorial sink means a sink of adequate size equipped with hot and cold water under pressure so as to permit the cleaning of the Body Art establishment and any equipment used for cleaning.

Section 14.13 Instrument Sink

- (a) Every Cleaning Area shall have a sink used exclusively for the cleaning of Instruments;
- (b) Every Instrument sink shall be of adequate size and equipped with hot and cold water under pressure so as to permit the cleaning of Instruments.

Section 14.14 Exposure Control Plan – Requirement

Each Operator shall create, update as needed, and comply with an Exposure Control Plan.

Section 14.15 Exposure Control Plan – Submission.

- (a) The Exposure Control Plan for a Body Art Establishment shall be submitted by the Operator to the Department for review so as to meet all of the requirements of OSHA regulations, to include, but not limited to, 29 Code of Federal Regulations 1910.1030 *et seq*, as amended from time to time;
- (b) A copy of the Body Art Establishment's Exposure Control Plan shall be maintained at the Body Art Establishments at all times and shall be made available to the Department upon request.

Section 14.16 Telephone Access – Emergency Communication

A Body Art Establishment shall be required to have a telephone in good working order and easily accessible to all employees and Clients during all hours of operation for the purpose of contacting police, fire or emergency medical assistance or ambulance services in the event of an emergency or perceived emergency. A legible sign shall be posted at or adjacent to the telephone indicating the correct emergency telephone numbers and the number of the Department.

Section 14.17 Body Art Establishment – Other Activities – Restrictions

No Operator shall permit the use of a Body Art Establishment:

- (1) For the sale of food and/or beverages, whether to be consumed at the Body Art Establishment or off-site;
- (2) As a barbershop or hair salon;
- (3) As a nail salon;
- (4) As a bar, with or without a license for the sale of alcoholic beverages;
- (5) As a bowling alley;
- (6) For human habitation;
- (7) As a tanning salon;
- (8) As a massage parlor; or
- (9) For any other use which, in the opinion of the Department, may cause the contamination of Instruments, Equipment, a Procedure Surface or Workstation.

Section 14.18 Body Art Establishment-License-Department Authorized to Issue

If an applicant for a Body Art Establishment License demonstrates to the Department compliance with section 14.00 *et seq* of these Body Art Regulations and has obtained a Special Permit from the Zoning Board of Appeals as required by the City of Lowell Zoning Code, Section 31-32.4.m, the Department is hereby authorized to issue a Body Art Establishment License pursuant to the provisions of these Body Art Regulations.

Section 14.19 Body Art Establishment – Posting Requirements

The Operator of a Body Art Establishment shall post in a prominent area of the Body Art Establishment accessible to the Department and to Clients, the following:

- (1) The original of the current Body Art Establishment License issued by the Department;
- (2) A Disclosure Statement, a model of which shall be available from the Department. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures;
- (3) The name, address and telephone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint;
- (4) An Emergency Plan, including:

- (a) A plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - (b) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operations; and
 - (c) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- (5) An occupancy and use permit as issued by the local building official;
 - (6) The Special Permit issued by the Zoning Board of Appeals;
 - (7) A current establishment license;
 - (8) Each practitioner's permit; and
 - (9) The Exposure Control Plan required under Section 16.04.

Section 14.20 Mobile or Temporary Body Art Establishment

No person shall establish or operate a Mobile or Temporary Body Art Establishment.

Section 14.21 Health of Body Art Establishment Employees

No person affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of, or in any capacity in, a Body Art Establishment which would create a likelihood that that person could Contaminate Equipment, Instruments, supplies, Procedure Surfaces, Workstations or otherwise compromise, or could reasonably be expected to compromise, the sterility of the Body Art Establishment with body substances or pathogenic organisms.

Section 15.00 INSTRUMENTS AND EQUIPMENT

- Section 15.01 Equipment and Furnishings**
- Section 15.02 Sanitizing and Sterilization Units**
- Section 15.03 Waste Receptacles**
- Section 15.04 Linens**
- Section 15.05 Rotary Pens**
- Section 15.06 Ink – Dye- Pigment**
- Section 15.07 Inserted Objects – Jewelry**
- Section 15.08 Single Use Equipment and Instruments**
- Section 15.09 Prohibited Instruments and Materials**

Section 15.01 Equipment and Furnishings

The Procedure Surface and the surface of all furniture and counter tops located in a Workstation, Instrument Storage Area and Cleaning Area shall be made of materials that are, or shall be treated so as to be, smooth, non-absorbent, non-porous, easily cleanable and able to withstand repeated cleaning and Disinfecting. Such surfaces shall be maintained in a good condition free from holes and cracks.

Section 15.02 Sanitizing and Sterilization Units

- (a) Every Body Art Establishment shall have at minimum the following:
 - (1) One or more Ultrasonic Cleaning Units sold for cleaning purposes under approval of the U.S. Food and Drug Administration. Every Ultrasonic Cleaning Unit shall be clearly labeled "Biohazardous" and shall be installed or placed in the Cleaning Area at a minimum distance of 36 inches from the required Autoclave or other sterilization unit;
 - (2) One or more Autoclaves or other Sterilization Unit sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration.
- (b) Every Operator and Body Art Practitioner shall be knowledgeable in the required washing, cleaning and sterilization procedures including the proper operation of the Ultrasonic Cleaning Unit and Autoclave or other Sterilization Unit.

Section 15.03 Waste Receptacles

- (a) Every Workstation shall have a foot-operated, covered, cleanable, waste receptacle for disposal of trash and other debris;
- (b) Every Workstation shall have an approved Sharps Container exclusively used for the disposal of Contaminated Waste in accordance with applicable law or regulations.

Section 15.04 Linens

Every Body Art Establishment or Body Art Practitioner shall maintain an adequate supply of reusable, launderable linens or single-use linens, such as drapes, lap cloths and aprons, to be used in conducting Body Art activities.

Section 15.05 Rotary Pens

If used in Body Art activity, rotary pens, also known as cosmetic machines, shall have detachable, disposable, sterile combo couplers and shall have detachable, disposable casings or casings designed and manufactured to be easily cleaned and sterilized.

Section 15.06 Ink – Dye – Pigment

- (a) All Inks, Dyes, and Pigments used to alter the color of skin in the conduct of Body Art shall be specifically manufactured for such purpose, approved, properly labeled as to its ingredients, manufacturer and lot number in accordance with applicable United States Food and Drug Administration (“FDA”) requirements, and shall not be contaminated or adulterated. The mixing of such Inks, Dyes or Pigments or the dilution of the same with potable sterile water is acceptable, unless prohibited or not recommended by the product manufacturer;
- (b) Inks, Dyes and Pigments prepared by, or at the direction of, a Body Art Practitioner for use in Body Art activity shall be made exclusively of non-toxic and non-contaminated ingredients approved by the Department or the FDA.

Section 15.07 Inserted Objects – Jewelry

- (a) Jewelry shall be sterilized, free from polishing compounds, free from nicks, scratches, burrs or irregular surface conditions;
- (b) Jewelry of 16 Gauge girth or thicker shall not have raised external threads or threading;
- (c) Jewelry shall be in good condition, designed and manufactured for insertion into the intended body part of the Client;
- (d) The use of previously work Jewelry or Jewelry brought into the Body Art Establishment by the Client or another is prohibited; and
- (e) Only Jewelry manufactured of surgical implant stainless steel of American Society for Testing and Material Standards grade F138, surgical implant solid 14K or 18K white or yellow gold, niobium, surgical implant titanium of Ti6A4V ELI, American Society for Testing Material Standards F-136-98, platinum or other materials considered by the Department to be equally biocompatible and capable of adequate cleaning and sterilization shall be inserted into a Client.

Section 15.08 Single Use Equipment and Instruments

Equipment, Instruments and supplies intended for single-use shall not be used more than one time.

Section 15.09 Prohibited Instruments and Materials

No Operator, Body Art Practitioner or other person shall utilize or have available in a Body Art Establishment any:

- (1) Instruments or materials, such as styptic pencils or devices, alum, or any similar material, used to check the flow of blood;
- (2) Liquid sterilants for the attempted sterilization of any re-usable Instrument or component;
- (3) Rotary pens that are designed or manufactured with a sponge type material at the opening of the chamber for the purpose of prohibiting the backflow of pigment and body fluid into the machine;
- (4) Multiple-use Instruments or components that are designed in such a manner that restrict or prevent proper washing, cleaning or sterilization;
- (5) Drugs, chemicals or agents that require a licensed medical practitioner's authorization for use, application or dispensation;
- (6) Suturing kits or suturing devices, scalpels, cauterizing tools or devices, or other tools, devices or instruments used for, or in conjunction with, any Prohibited Body Art Activity, and not otherwise properly used for any allowed Body Art activity;
- (7) Piercing needles or piercing tapers for the sale or use by one not a Body Art Practitioner; or
- (8) Needles used in the practice of "play-piercing," so-called.

Section 16.00 GENERAL REQUIREMENTS

Section 16.01	Animals
Section 16.02	Smoking, Eating and Drinking – Prohibited
Section 16.03	Disease Transmission
Section 16.04	Exposure Incident Report
Section 16.05	Injury Reports
Section 16.06	Record Maintenance
Section 16.07	Establishment Maintenance
Section 16.08	Toilet Room and Plumbing Maintenance
Section 16.09	Equipment and Instrument Maintenance
Section 16.10	Contaminated Instruments
Section 16.11	Instrument Storage
Section 16.12	Use of Chemicals and Cleansers
Section 16.13	Labeling
Section 16.14	Linen Storage and Cleaning
Section 16.15	Cleaning and Testing of Ultrasonic Cleaning Units and Sterilization Units
Section 16.16	Waste Hauling

Section 16.01 Animals

- (a) No Body Art Practitioner shall conduct any form of Body Art upon an animal;
- (b) No animal, except one actually serving as any guide animal, signal animal, or service animal, accompanied by a totally or partially blind person or deaf person, or a person whose hearing is impaired, or handicapped person, shall be allowed in a Body Art Establishment.

Section 16.02 Smoking, Eating and Drinking – Prohibited

No person shall smoke, or otherwise use any form of tobacco, eat or drink at or in a Workstation, Instrument Storage Area or Cleaning Area. Only in the case of medical need may fluids be consumed by a Client.

Section 16.03 Disease Transmission

Except as set forth in these regulations, no Operator, Body Art Practitioner or other person shall commit or permit any act that may expose any Client or person to disease or illness or otherwise contaminate any Instrument or area in a Body Art Establishment.

Section 16.04 Exposure Incident Report

- (a) An Exposure Incident Report shall be completed by the close of the business day during which an Exposure has or might have taken place by the involved or knowledgeable Body Art Practitioner for every Exposure incident occurring in the conduct of any Body Art activity. A copy of each Exposure Incident Report shall be sent forthwith to the Lowell Board of Health.
- (b) Each Exposure Incident Report shall contain:
 - (1) A copy of the Application and Consent Form for Body Art activity completed by any Client or Minor client involved in the Exposure incident;
 - (2) A full description of the Exposure incident, including the portion of the body involved therein;
 - (3) Instrument(s) or other Equipment implicated;
 - (4) A copy of the Body Art Practitioner License of the involved Body Art Practitioner;
 - (5) Date and time of Exposure;
 - (6) A copy of any medical history released to the Body Art Establishment or Body Art Practitioner; and

- (7) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

Section 16.05 Injury Reports

Any written report of any injury, infection, infection complication or disease as a result of a body art procedure, or complaint of injury, infection, infection complication or disease, shall be forwarded by the operator to the Department which issued the license, with a copy to the injured client within five working days of its occurrence or knowledge thereof. The report shall include:

- (a) The name of the affected client;
- (b) The name and location of the body art establishment involved;
- (c) The nature of the injury, infection, infection complication or disease;
- (d) The name and address of the affected client's health care provider, if any, and;
- (e) Any other information considered relevant to the situation.

Section 16.06 Record Maintenance

- (a) Every Operator shall have and retain at the Body Art Establishment for inspection by the Department the following information for the time period specified below, to be updated as needed to remain current:
 - (1) Exposure Control Plan – one copy of the current Exposure Control Plan for the Body Art Establishment submitted to, and approved by, the Department;
 - (2) Employee records (three years) – indicating: name, home address, home phone number, identification photograph, state identification card number, physical description as detailed on state identification card, date of birth, type(s) of Body Art procedures conducted, dates of employment at the Body Art Establishment, Body Art Practitioner registration number, Hepatitis B vaccination status or declination notification;
 - (3) Body Art Practitioner independent operator (non-employee of the Body Art Establishment) records (three years) – indicating: name, home address, phone number, state identification card number, physical description as detailed on state identification card, date of birth, type(s) of Body Art procedures conducted, dates of operating at the Body Art Establishment, Body Art Practitioner registration number, Hepatitis B vaccination status or declination notification;

- (4) Client records (three years) – copies of all Application and Consent forms for Body Art activity;
 - (5) Waste hauler manifests for Contaminated Waste transport and disposal (three years);
 - (6) Training records (three years) – documentation to verify training of Exposure Control Plan to all employees and Body Art Practitioner independent operator(s) conducting Body Art activity at such establishment;
 - (7) Commercial biological monitoring (spore) system test results (three years);
 - (8) Body Art Regulations – one copy of these Body Art Regulations, as currently amended, and any current State regulations concerning the practice of Body Art; and
 - (9) Injury Reports (three years) required by Section 16.05.
- (b) Every Operator shall have, and retain permanently at the Body Art Establishment, all Exposure Incident Reports for inspection by the Department. The disposal or destruction of these reports is prohibited.

Section 16.07 Establishment Maintenance

Every area of a Body Art Establishment shall be kept in good repair, clean and free of all vermin and maintained so as to prevent Contamination of Clients and other persons.

Section 6.08 Toilet Room and Plumbing Maintenance

Every toilet room, all plumbing and all plumbing fixtures shall be kept clean, fully operative, and in good repair.

Section 16.09 Equipment and Instrument Maintenance

- (a) All Instruments, Equipment and Procedure Surfaces used for Body Art activity, including, but not limited to, devices, containers, cabinets, storage compartments, chairs, tables, counters, and dispensers shall be maintained clean, fully operative, and in good repair and free from Contamination;
- (b) All instruments manufactured for performing any specific Body Art activity shall be so designated, used and approved, and shall not be modified, adulterated,

contaminated or improperly used. Instruments used for Body Piercing shall be constructed of stainless surgical-grade steel, and designed and manufactured for such use.

Section 16.10 Contaminated Instruments

- (a) Every Contaminated reusable Instrument or component thereof, including, but not limited to, needles, needle bars, needle tubes, needle caps, Body Piercing tubes, rotary pens, and coil machines, shall be immersed in water or other approved liquid solution in the Cleaning Area until cleaned and sterilized;
- (b) Prior to sterilization, every such Instrument shall be thoroughly washed by scrubbing with an appropriate Disinfectant and Hot Water in accordance with manufacturer's instructions so as to remove Contamination and foreign matter;
- (c) Upon completion of the washing process as set forth in subsection (b) above, every such Instrument shall be cleaned using an Ultrasonic Cleaning Unit in accordance with manufacturer's instructions;
- (d) Upon completion of the cleaning process as set forth in subsection (c) above, every such Instrument shall be packaged into procedure set-up packages with color change indicators designed to indicate complete sterilization thereof, initials of the person responsible for sterilizing the Instruments and date of such sterilization. Instruments may be packaged individually or with other Instruments to the extent permitted under the package manufacturer's instructions;
- (e) Upon completion of the packaging process as set forth in subsection (d) above, every such Instrument shall be properly sterilized by properly Autoclaving in an approved Autoclave or sterilized in another type of Sterilization Unit according to manufacturer's instructions;
- (f) If a package becomes wet, is opened or is otherwise compromised so as to allow the possible Contamination of the contents of the package, any instrument therein shall be deemed Contaminated and shall again be washed, cleaned, packaged and sterilized as indicated above prior to use;
- (g) Sterilized Instruments shall be stored in a dry, clean cabinet or tightly covered container. Cabinets and containers designated for the storage of sterilized Instruments shall be used for that purpose exclusively;
- (h) Every sterilized package shall be deemed expired six (6) months after the date of sterilization. Every Instrument therein shall again be washed, cleaned, packaged and sterilized consistent with the provisions of this section prior to use; and
- (i) Liquid sterilants shall not be used for the sterilization of any reusable Instrument.

Section 16.11 Instrument Storage

All Instruments must be stored in the Instrument Storage Area in a manner so as to prevent Contamination. Identical Instruments shall be exclusively stored together, unless intermingled storage with different Instruments does not represent a hazard as determined by the Department.

Section 16.12 Use of Chemicals and Cleansers

All Germicides, Disinfectants, chemicals, and cleansers must be used according to the manufacturer's requirements, used only for the purpose approved and intended by the manufacturer and properly labeled and stored so as to prevent Contamination and hazard.

Section 16.13 Labeling

All storage containers, cabinets, shelves and other storage areas in the Instrument Storage Area shall be properly labeled as to their contents, including, but not limited to, identification of Contaminated or soiled contents as appropriate.

Section 16.14 Linen Storage and Cleaning

- (a) Clean linen shall be stored in a manner so as to prevent Contamination. Containers used for the storage of such linen shall be clearly labeled as to the contents and used for no other purpose. Linens that have become soiled or contaminated shall be disposed of, or not be used, until properly laundered. Contaminated linen shall be labeled, handled, stored, transported, and laundered or disposed of in a manner approved by the Department, so as to prevent hazard;
- (b) Any other protective clothing, garment or cloth items worn during, or used during, any Body Art activity and intended for reuse shall be mechanically washed with detergent and dried after each use. The items shall be stored in a clean, dry manner and protected from Contamination until used. Should such items become Contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160°F or a temperature of 120°F with the use of chlorine Disinfectant.

Section 16.15 Cleaning and Testing of Ultrasonic Cleaning Units and Sterilization Units

- (a) Every Ultrasonic Cleaning Unit and Autoclave or Sterilization Unit shall be used and maintained according to manufacturer's specifications. Each Ultrasonic Cleaning Unit, Autoclave or other Sterilization Unit shall be emptied and thoroughly cleaned and Disinfected at least once each day that the unit is used;

- (b) Every Autoclave or Sterilization Unit shall be tested with a commercial biological monitoring (spore) system test in a manner and frequency consistent with the manufacturer's instructions, but no less than once every week, to monitor the efficacy of the eradication of all living organisms, including spores, by the Autoclave or other Sterilization Unit;
- (c) Biological monitoring (spore) system testing of the Autoclave or other Sterilization Unit shall be performed by an independent commercial testing laboratory contracted by the Operator and/or Body Art Practitioner. A provision shall be included in the contract between the Operator and/or Body art Practitioner with the commercial testing laboratory requiring the commercial testing facility to notify the Department of any failure of the Autoclave or other Sterilization Unit to eradicate all living organisms, including spores.

Section 16.16 Waste Hauling

- (a) All waste shall be removed from the Body Art Establishment on a daily basis and placed in an approved, secured receptacle for pickup and removal;
- (b) All Contaminated Waste in solid form and Sharps shall be disposed of through use of an approved waste hauler in accordance with all applicable state and federal and local laws, ordinances and regulations. The frequency of disposal shall be determined by the Department, but shall be no less than every 30 days.

Section 17.00 CONDUCT OF BODY ART

Section 17.01	General Standards of Practice
Section 17.02	Workstation Sanitizing
Section 17.03	Hand Washing and Use of Gloves
Section 17.04	Instrument and Equipment Preparation
Section 17.05	Use of Workstation
Section 17.06	Use of Instruments, Supplies and Sharps
Section 17.07	Waste Disposal
Section 17.08	Multiple Body Art Activities

Section 17.01 General Standards of Practice

Body Art Practitioners are required to comply with the following minimum health standards:

- (a) A body art practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention;
- (b) A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs;

- (c) Health History and Client Informed Consent. Prior to performing a body art procedure on a client, the practitioner shall:
- (1) Inform the client, verbally and in writing, that the following health conditions may increase health risks associated with receiving a body art procedure;
 - (i) History of diabetes;
 - (ii) History of hemophilia (bleeding);
 - (iii) History of skin disease, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
 - (iv) History of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 - (v) History of epilepsy, seizures, fainting, or narcolepsy;
 - (vi) Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting;
 - (vii) History of, or suspicion of, adverse reaction to latex or products containing latex; and
 - (viii) Any other conditions such as hepatitis or HIV.
 - (2) Inquire of female client as to whether she is pregnant or possibly pregnant; and
 - (3) Require that the client sign a form, approved by the Department, confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by these Regulations.

Section 17.02 Workstation Sanitizing

- (a) All surfaces in a Workstation which come in contact with a Client or which become Contaminated or which may reasonably have become Contaminated shall be cleaned with water and soap or other appropriate cleaning compound immediately following the conduct of Body Art upon a Client;

- (b) The Workstation, including, but not limited to the Client's chair, table, tray, procedure Surface and similar surfaces shall be thoroughly sanitized with an approved Disinfectant immediately before and immediately after the conduct of Body Art upon a Client therein/thereon.

Section 17.03 Hand Washing and Use of Gloves

- (a) A Body Art Practitioner shall clean his/her hands and forearms thoroughly by washing with antibacterial soap and warm water and promptly dry the same with single-use paper towels or like material prior to conducting any Body Art activity;
- (b) A Body Art Practitioner shall wear new, clean, single-use examination gloves while assembling all Instruments and other supplies intended for use in the conduct of Body Art and during the conduct of Body Art upon a Client. New, clean, single-use non-latex examination gloves shall be used during the preparation for, and the conduct of, any Body Art activity upon a Client with a known or suspected latex allergy;
- (c) If an examination glove is pierced, torn or Contaminated through contact with any part of the Client not subject to the conduct of Body Art or such other surface so as to present the possibility of Contamination to any person other than the Client, or otherwise exposed to an unsanitary or non-sterile surface, both gloves must be promptly removed and discarded into an appropriate waste receptacle. The Body Art Practitioner shall don new gloves before proceeding with the conduct of Body Art;
- (d) If the gloves of a Body Art Practitioner are removed at any time during assembly of instruments or supplies, or the conduct of Body Art, the Body Art Practitioner must clean his/her hands and don new gloves in accordance with this section; and
- (e) The use of single-use examination gloves does not preclude or substitute for the above hand-washing requirement.

Section 17.04 Instrument and Equipment Preparation

- (a) Every Body Art Practitioner shall use linens, properly cleaned in accordance with these regulations, or new single-use drapes, lap cloths, and aprons for each element of Body Art conducted upon a Client;
- (b) Every substance used in the conduct of Body Art shall be dispensed from containers so as to prevent Contamination or the possibility of contamination of the unused portion. Immediately before tattooing a Client, a sufficient quantity of the ink, dye or pigment to be used therefore shall be transferred from its original bottle or container into sterile, single-use disposable cups, caps or containers;

- (c) Upon sanitization of the Workstation, the Instrument tray shall be covered with an uncontaminated single-use paper towel, tray cover or similar material;
- (d) Every Instrument required for the conduct of Body Art upon a Client shall be placed and arranged on the Instrument tray in a manner so as to prevent contamination of sterilized instruments. All sterilized instruments shall remain in sterile packages until opened in front of the Client; and
- (e) Sharps Containers shall be easily accessible to the Body Art Practitioner and located as close as is feasible to the immediate area where the Sharps will be used.

Section 17.05 Use of Workstation

- (a) The conduct of Body Art shall occur only upon a Client or Minor Client in a Workstation under sterile conditions;
- (b) Only the Client, or the parent or legal guardian of a Minor Client, the guide or service animal of a Client, the Body Art Practitioner conducting the Body Art and an assistant or apprentice to the Body Art Practitioner – with the express permission of the Client, shall be permitted in the Workstation during the conduct of Body Art.

Section 17.06 Use of Instruments, Supplies and Sharps

- (a) All Instruments used in the conduct of Body Art shall be without contamination, and shall be properly cleaned, sanitized and sterilized in accordance with these Body Art Regulations;
- (b) All Instruments and other Equipment or supplies used in the conduct of Body Art that are designed or intended for single-use shall only be used once;
- (c) All Sharps shall be properly disposed of immediately following use in a Sharps Container;
- (d) All products applied to the skin, including Body Art stencils, shall be single-use and shall be used only once;
- (e) Products used in the application of Body Art stencils shall be dispensed and applied to the area of the Client upon which the Body Art activity is to be performed with sterile gauze or other sterile applicator so as to prevent Contamination of the container and contents of the product in use. The gauze or other applicator shall be used only once;
- (f) Only single-use disposable razors shall be used in the conduct of Body Art activities and such single-use disposable razors shall not be used more than one time.

Section 17.07 Waste Disposal

Disposable items such as gloves, wipes, cotton balls, Q-tips, water cups, rinse cups (used alone or in an Ultrasonic Cleaning Unit), drapes, lap cloths, aprons and other single-use items that have come into contact with any person, Client, Workstation, Instrument trays, counters, towels or linens used for the conduct of Body Art, or have otherwise become Contaminated, shall be promptly discarded during, or upon completion of, the conduct of Body Art into an appropriate waste receptacle in accordance with these Body Art Regulations.

Section 17.08 Multiple Body Art Activities

The following shall be deemed to be multiple Body Art activities on a single Client, each requiring proper washing, cleaning, Sanitization and Sterilization of Instruments, Workstations and other Equipment and areas as set forth under these regulations:

- (1) Creating two or more Tattoos on different areas of the body of a single Client;
- (2) The use of more than one needle or scalpel during the conduct of Body Art upon a single Client; or
- (3) Creating one Tattoo and the use of one needle or scalpel on a single Client.

Section 18.00 PROHIBITED ACTIVITIES

Section 18.01	Piercing Gun – Use
Section 18.02	Cosmetic Tattooing – Micro-pigmentation, etc.
Section 18.03	Particular Body Piercings Prohibition/Restriction
Section 18.04	Tongue Splitting
Section 18.05	Braiding
Section 18.06	Three Dimensional/Implantation
Section 18.07	Tooth Filing
Section 18.08	Cartilage Notching
Section 18.09	Amputation
Section 18.10	Genital Modification
Section 18.11	Introduction of Saline or Other Liquids

Section 18.01 Piercing Gun

The use of a Piercing Gun is prohibited at all times.

Section 18.02 Cosmetic Tattooing – Micro-pigmentation, etc.

Cosmetic Tattooing, also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts or such other person that receives a license,

permit or registration by the Commonwealth of Massachusetts specifically to perform such activities.

If a person obtains such a license, permit or registration from the Commonwealth, such person may conduct such Body Art activity, provided all requirements of these Body Art Regulations are complied with, excepting only section 5.00.

Section 18.03 Particular Body Piercings – Prohibition/Restriction

The following Body Piercings are hereby prohibited on any Client:

- (1) Piercing of the Uvula;
- (2) Piercing of the tracheal area;
- (3) Piercing of the neck;
- (4) Piercing of the ankle;
- (5) Piercing between the ribs or vertebrae;
- (6) Piercing of the web area of the hand or foot;
- (7) Piercing of the lingual frenum (tongue web);
- (8) Piercing of the clitoris;
- (9) Any form of chest or deep muscle piercings – excluding piercing of the nipple;
- (10) Piercing of the anus;
- (11) Piercing of an eyelid, whether top or bottom;
- (12) The form of Body Piercing known as “pocketing”;
- (13) Piercing of the gums;
- (14) Piercing or skewering of a testicle;
- (15) So-called “deep” piecing of the penis – meaning piercing though the shaft of the penis, or “trans-penis” piercing in any area from the corona glandis to the pubic bone;
- (16) So-called “deep” piercing of the scrotum – meaning piercing through the scrotum, or “trans-scrotal” piercing;

- (17) So-called "deep" piercing of the vagina – to include, but not limited to – so called "triangles"; and
- (18) Such other areas of the body as the Lowell Board of Health shall determine after notice and hearing.

Section 18.04 Tongue Splitting

The cutting, splitting, or other bifurcation of the tongue is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 18.05 Braiding

The Braiding of the skin is hereby prohibited unless perform by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 18.06 Three Dimensional/Implantation

Three Dimensional Body Art, including "beading," and implantation is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 18.07 Tooth Filing/Fracturing/Removal

The filing or shaping or the intentional fracturing or extraction of a tooth is hereby prohibited unless performed by a dentist licensed by the Commonwealth of Massachusetts.

Section 18.08 Cartilage Modification

The cutting, notching, sculpting or other modification of cartilage is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 18.09 Amputation

The intentional amputation of any part of the body is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 18.10 Genital Modification

Modification of the genitalia by means of sub-incision, bifurcation, castration, male or female nullification, or other surgical means is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 18.11 Introduction of Saline or Other Liquids

The introduction of saline solution or other liquid or semi-liquid substance into the body of another for the purpose of causing a modification of the body is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

Section 19.00 ENFORCEMENT OF BODY ART REGULATIONS

Section 19.01	Variance Provision
Section 19.02	Variance Request – Procedure
Section 19.03	Variance – Qualification, Expiration, Revocation, Modification, Suspension
Section 19.04	Violation by a Body Art Practitioner
Section 19.05	Violation by an Operator or in a Body Art Establishment
Section 19.06	Failure to Comply with Orders of Department
Section 19.07	Grounds for Denial of License, Revocation of Permit, or Refusal to Renew
Section 19.08	Procedure for Hearings
Section 19.09	Unauthorized Practice of Body Art
Section 19.10	Criminal Prosecution
Section 19.11	Fine for Violation – Separate Offense
Section 19.12	Non-Criminal Disposition

Section 19.01 Variance Provision

Variance may be granted from a particular section or provision of these Body Art Regulations by the Department with respect to a particular case only when, in the judgment of the Lowell Board of Health.

- (a) The enforcement of the subject section or provision would do manifest injustice;
- (b) The applicant for a Body Art Practitioner License or Body Art Establishment License, as the case may be, has proved to the satisfaction of the Lowell Board of Health that the same degree of protection required under these Body Art Regulations can be achieved without the strict application or enforcement of the subject section or provision.

Section 19.02 Variance Request – Procedure

- (a) Every request for a variance pursuant to section 19.01 of these Body Art Regulations shall be made in writing to the Lowell Board of Health and shall state the specific section or provision from which variance is sought. Said request for variance shall require notice and public hearing before the Lowell Board of Health;

- (b) Every variance granted by the Lowell Board of Health, after notice and public hearing thereon, shall be in writing and the original of the variance document shall be posted, in the case of a variance relating to a Body Art Practitioner License, with the position of the Body Art Practitioner License as required by section 10.10 and in the case of a variance relating to a Body Art Establishment Permit, with the posting of the Body Art Establishment Permit as required by section 14.18;
- (c) A copy or duplicate original of all variance documents issued by the Department shall be held on file in the office of the City Clerk of the City of Lowell and a duplicate in the offices of the Department;
- (d) A variance document issued by the Department shall contain information so as to reasonably inform the public of the nature of the variance, the need therefore, the specific section or provision of these Body Art Regulations from which variance was granted and the name of the subject Body Art Practitioner or Body Art Establishment; and
- (e) Information advising as to whether the subject variance is unlimited in time or duration or has a fixed expiration date shall be detailed in all variance documents issued by the Lowell Board of Health.

Section 19.03 Variance - Qualification, Expiration, Revocation, Modification, Suspension

Any variance granted by the Lowell Board of Health pursuant to section 19.01 of these Body Art Regulations may be subject to such qualification, expiration, revocation, modification or suspension as the Board of Health, in its discretion, shall deem appropriate, after notice and hearing thereon.

Section 19.04 Violation by a Body Art Practitioner

- (a) A Body Art Practitioner License shall be temporarily suspended by the Department immediately upon written notice of such suspension to the subject Body Art Practitioner when, in the sole discretion of the Health Director of the City of Lowell, said Health Director has reason to believe that, due to a condition or practice of the subject Body Art Practitioner, an imminent threat to the public health and/or welfare exists. Said temporary suspension shall be subject to review forthwith by the Lowell Board of Health upon notice and hearing;
- (b) When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Health Director, the Health Director may terminate the temporary suspension of the Body Art Practitioner License of the subject Body Art Practitioner and reinstate the same upon written notice to the subject Body Art Practitioner and the Body Art Practitioner License of such Body Art Practitioner shall remain in full force

and effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Lowell Board of Health.

- (c) In all other instances of a violation of these Body Art Regulations by a Body Art Practitioner, the Department shall serve upon the subject Body Art Practitioner written order of notice detailing the condition, event or practice determined by the Health Director to be in violation of these Body Art Regulations and such written order of notice shall instruct the Body Art Practitioner that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Health Director; and
- (d) Should a Body Art Practitioner, subject to an order of notice pursuant to section 19.04 (c) fail to abate or correct the condition, event or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Lowell Board of Health, after notice and hearing, may suspend, terminate, revoke or modify the License held by such Body Art Practitioner.

Section 19.05 Violation by an Operator or in a Body Art Establishment

- (a) A Body Art Establishment License shall be temporarily suspended by the Department immediately upon written notice of such suspension to the subject Operator when, in the sole discretion of the Health Director, due to a condition of or practice in the Body Art Establishment, the Health Director has reason to believe that an imminent threat to the public health and/or welfare exists. Said temporary suspension shall be subject to review forthwith by the Lowell Board of Health upon notice and hearing;
- (b) When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Health Director, the Health Director may terminate the temporary suspension of the Body Art Establishment License of the subject Operator and reinstate the same upon written notice to the subject Operator and the Body Art Establishment License of such Body Art Establishment shall remain in full force and effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Health Commissioner;
- (c) In all other instances of a violation of these Body Art Regulations by an Operator or in a Body Art Establishment, the Department shall serve upon the subject Operator written order of notice detailing the condition, event or practice determined by the Health Director to be in violation of these Body Art Regulations and such order of notice shall instruct the Operator that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Health Director; and
- (d) Should an Operator, subject to an order of notice pursuant to section 19.05 (c) fail to abate or correct the condition, event or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Lowell

Board of Health, after notice and hearing, may suspend, terminate, revoke or modify the Body Art Establishment License held by such Operator.

Section 19.06 Failure to Comply With Orders of the Department

Whenever a Body Art Practitioner or Operator has failed, to the satisfaction of the Department, to comply with an order of notice issued by the Department pursuant to the provisions of these Body Art Regulations, the Health Director may temporarily suspend the Body Art Practitioner License of the subject Body Art Practitioner or the Body Art Establishment License of the subject Operator until such time as the subject Body Art Practitioner or Operator has complied with the order of notice to the satisfaction of the Department. Said temporary suspension shall be subject to review forthwith by the Lowell Board of Health upon notice and hearing.

Section 19.07 Grounds for Denial of License, Revocation of Permit, or Refusal to Renew

- (a) The Lowell Board of Health may deny a license, revoke a license, or refuse to renew a license on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:
- (1) Any actions which would indicate that the health or safety of the public would be at risk;
 - (2) Fraud, deceit or misrepresentation in obtaining a license, or its renewal;
 - (3) Criminal conduct which the Board determines to be of such a nature so as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 - (4) Any present or past violation of the Board's regulations governing the practice of body art;
 - (5) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 - (6) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 - (7) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a license;

- (8) Continuing to practice while his/her license is lapsed, suspended, or revoked;
 - (9) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations; and
 - (10) Other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;
- (b) The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations for which the Board intends to deny, revoke, or refuse to renew a license. The applicant, establishment or practitioner shall have five (5) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a license, if the applicant establishment or practitioner fails to comply after said five (5) days.
 - (c) Applicants denied a license may reapply at any time after denial; and
 - (d) Actions by the Board under this section are a supplement to, and not a substitution for, any others specified in these Regulations:

Section 19.08 Procedure for Hearings

- (a) Suspension of a Permit
 - (1) After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 *et seq.* (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of the suspension;
 - (2) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board; and
 - (3) In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to, or at the time of, the suspension an immediate and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

(b) Denial, Revocation, or Refusal to Renew a Permit

- (1) If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 *et seq.*
- (2) Following the hearing, the hearing officer shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

Section 19.09 Unauthorized Practice of Body Art

The Department shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official, any incidents of unauthorized practice of body art.

Section 19.10 Criminal Prosecution

At the discretion of the Enforcement Officials of these Regulations, whoever violates any provision of these Body Art Regulations may be penalized pursuant to a criminal complaint brought in the District Court. Such criminal complaint or any non-criminal disposition under Section 19.09 shall not preclude any other action by the Department under these Body Art Regulations regarding violations thereof.

Section 19.11 Fine for Violation – Each Day a Separate Offense

The fine for a violation of any provision of these Body Art Regulations shall be no less than \$300 per offense. Each day that a violation continues shall be deemed to be a separate offense.

Section 19.12 Non-Criminal Disposition

- (a) Notwithstanding the fines imposed by these regulations, under normal District Court criminal dispositions for violations hereof, said violations may be handled by non-criminal disposition, if so elected by the Enforcement Officials hereunder;
- (b) Under the non-criminal disposition procedure, any person or establishment that violates any provision of these regulations may be penalized by a non criminal disposition as provided under Section 1-16 of the Code of the City of Lowell and M.G.L., c. 40, §21D, as amended; and
- (c) In case of non-criminal disposition, Enforcement Officials shall issue a "Notice to Appear in Court" as defined under said c. 40, §21D, as amended, and the matter shall be handled as provided under said §21D.

Section 20.00 MISCELLANEOUS PROVISIONS

Section 20.01 Amendments

These rules and regulations will be reviewed annually by the Board of Health. The Board of Health reserves the right to amend these rules and regulations at any time after public notice and hearing thereon.

Section 20.02 Effective Date

Except as herein otherwise provided, these rules and regulations shall be effective as of the date of adoption hereof by the Board of Health of the City of Lowell.

Section 21.00 REVOCATION OF PRIOR BODY PIERCING REGULATIONS

The Board of Health of the City of Lowell, by the enactment of these Body Art Regulations, revokes and cancels, in their entirety, the Body Piercing Regulations adopted by said Lowell Board of Health on April 5, 2000.

Any Body Piercer of Body Piercing Facility possessing a Certificate of Registration under the Body Piercing Regulations dated April 5, 2000 shall be required to obtain applicable Body Art Operator Licenses and Body Art Establishment Licenses from the Lowell Board of Health within sixty (60) days after the adoption of these Body Art Regulations. The initial Body Art Licenses issued to existing holders of Body Piercing Certificates of Registration shall be without fees and shall expire on the same date as their existing Body Piercing Certificates of Registration.

The above Body Art Regulations are hereby adopted by the Board of Health of the City of Lowell, after notice and public hearing thereon, on this 31st day of January 2001.

BOARD OF HEALTH OF THE CITY OF LOWELL

Patricia Taupier, Chairperson
JoAnn Keegan
Esther M. Wallace
Robert G. Mondou, MD
William P. Bailey