

REGULATION TO REQUIRE A LICENSE TO OPERATE A BODY ART ESTABLISHMENT AND TO ESTABLISH MINIMUM STANDARDS FOR BODY ART ESTABLISHMENTS IN LIVINGSTON COUNTY

PURPOSE

The purpose of this chapter is to safeguard the health, safety and welfare of the public from the spread of infectious diseases from practices which prick or pierce the skin, by regulating the operation of body art establishments in Livingston County; to establish environmental health standards for the performance of body art procedures; to regulate the establishment and practice of body art services; to authorize the Livingston County Department of Public Health to enforce these standards and regulations by inspection; to require a license to operate a body art establishment; to require effective sterilization, sanitation, and hygienic and disease-controlling techniques, for individuals engaged in the practice of body art; and to provide licensing procedures and a fee structure to reasonably cover the cost to implement the program. Therefore, this regulation is adopted to safeguard the public health by requiring a license to operate a body art establishment and establishing minimum standards for body art establishments within Livingston County.

SECTION 1100.0 GENERAL PROVISIONS OF THE REGULATION

1100.01 Title

This regulation shall be known as the Regulation to Require a License to Operate a Body Art Establishment and to establish Minimum Standards for Body Art Establishments in Livingston County. This Regulation is an extension of the Livingston County Sanitary Code, being Chapter XI.

1100.02 Authority

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

1100.03 Jurisdiction and Administration

This regulation shall have effect throughout Livingston County. Nothing in this regulation shall be construed to restrict the authority of any municipality in Livingston County to adopt more restrictive regulations or ordinances.

SECTION 1101.0 DEFINITIONS

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

1101.01 Aftercare

Written instructions given to the client, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary, and information on how to contact the Livingston County Department of Public Health in the event of infection or other serious complications.

1101.02 Blood

Refers to human blood.

1101.03 Bloodborne Pathogens

Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, the following; Hepatitis B Virus (HBV), Hepatitis C Virus (HCV), Human Immunodeficiency Virus (HIV).

1101.04 Body Art Activities

The practice of physical body adornment utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing. This definition does not include practices that are considered medical procedures by the Michigan Board of Medicine, such as implants under the skin, branding, scarification, amputations, tongue splitting or suspensions. Body art does not mean piercing the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp earring piercing systems.

1101.05 Body Art Establishment

Any place or premises, whether public or private, temporary or permanent in duration or location, where the practice of body art activities, whether or not for profit, is performed.

1101.06 Body Art Technician

Any person who performs body art activities in a body art establishment.

1101.07 Body-piercing

Any method of piercing the skin or mucosa, except the outer perimeter and lobes of the ear, in order to place any object, including but not limited to rings, studs, bars, or other forms of jewelry or ornamentation, through the skin or mucosa.

1101.08 **Cleaned**

Removal of all visible dust, soil, or any other foreign material.

1101.09 **Contaminated**

The presence or reasonably anticipated presence of blood or OPIM (Other Potentially Infectious Materials) on an item or surface.

1101.10 **Cosmetic Tattooing**

See Tattooing

1101.11 **Critical Violation**

Any violation of the regulation that the Department determines has a direct contribution to infection, illness or injury.

1101.12 **Decontaminated**

The use of physical or chemical means to remove, inactivate, or destroy blood-borne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles, and the surface or item is rendered safe for handling, use, or disposal.

1101.13 **Department**

Livingston County Department of Public Health (LCDPH).

1101.14 **Equipment**

All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

1101.15 **Hand Sink**

Lavatory equipped with hot and cold running water under pressure used solely for washing hands and arms.

1101.16 **Health Officer**

The Director of the Livingston County Department of Public Health or his/her duly authorized representative.

1101.17 Infection Control Procedures

The necessary procedures to be followed by the facility for cleaning and disinfecting body art equipment after contact with blood or other potentially infectious materials. This system shall comply with all applicable federal, state, and local regulations pertaining to infection control; and comply with the manufacturer's recommended procedures for the cleaning and disinfection of equipment used in the facility; or if adequate manufacturer's recommendations are not available, comply with generally accepted procedures of infection control.

1101.18 Infectious Waste

Waste that epidemiological evidence indicates is capable of transmitting a dangerous communicable disease. Infectious waste includes, but is not limited to, the following:

- (1) Contaminated sharps or objects that could potentially become contaminated sharps
- (2) Infectious biological cultures;
- (3) Pathological waste;
- (4) Blood and blood products in liquid and semi-liquid form; or
- (5) Other waste that has been intermingled with infectious waste.

1101.19 Instruments Used for Body Art

All hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or have possible exposure to bodily fluids during body art procedures.

1101.20 Jewelry

Any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium, platinum, or a dense, low-porosity plastic and which is free of nicks, scratches or irregular surfaces, or any other such material approved by the Department, and which has been properly sterilized prior to use.

1101.21 License

Written approval by the Department to operate a body art establishment. Approval is given in accordance with these regulations and is separate from any other licensing requirements that may exist.

1101.22 Operator

Any person who controls, operates, conducts, manages, or owns any body art establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not.

1101.23 Personal Protective Equipment

Specialized clothing or equipment worn for protection against contact with blood or OPIM.

1101.24 Secure Area

An area designated and maintained to prevent the entry of unauthorized persons.

1101.25 Semi-liquid Blood, Blood Products

Blood or blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.

1101.26 Sharps

Any object that is used for the purpose of penetrating the skin or mucosa including, but not limited to, needles, scalpel blades, or razor blades.

1101.27 Sharps Container

Puncture-resistant, leak proof container that can be closed for handling, storage, transportation and disposal, and is labeled with the international biohazard symbol.

1101.28 Standards for Body Art Establishments

Minimum Standards developed by the Department with the intent to prevent injuries, infections and disease transmissions as a result of improper body art or aftercare procedures. Minimum Standards for Body Art Establishments in conjunction with the Regulation to Require a License to Operate a Body Art Establishment regulates the design, construction, management and operation of body art establishments.

1101.29 Sterilize/Sterilization

The use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

1101.30 Tattooing

Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing, such as permanent cosmetics, micro-pigmentation, permanent color technology, and micro-pigment implantation.

1101.31 Temporary Body Art Establishments

A body art establishment where an operator/technician provides body art procedures at a fixed location no more than fourteen (14) days consecutively in conjunction with a single event or celebration. (See also Section 1102.09)

1101.32 Universal Precautions

An approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, HCV, and other bloodborne pathogens.

SECTION 1102.0 LICENSE and PLAN REVIEW REQUIREMENTS

1102.01 Valid License

No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate a body art establishment unless they have first paid the appropriate fees, demonstrated compliance with these regulations, and received a valid license from the Department.

1102.02 Compliance and Standards for Body Art Establishments

No license shall be issued unless the applicant has demonstrated compliance with the provisions of this section, all other provisions of this regulation, and the Minimum Standards for Body Art Establishments.

1102.03 Training and Knowledge Demonstration

No license shall be issued unless the operator provides documentation that all technicians practicing body art have successfully completed an approved bloodborne pathogen training course and basic first aid training, and has knowledge of such subjects the Health Officer deems relevant. Knowledge of such subjects may be demonstrated through submission of documentation of attendance/completion of courses provided by body art organizations/associations or by equipment manufacturers.

1102.04 Michigan Administrative Code

All body art establishments shall be in compliance with the requirements of Rule 325.7001 *et seq.* of the Michigan Administrative Code regarding Occupational Health Standards-Bloodborne Infectious Diseases. These Rules apply to all employers that have employees with occupational exposure to blood and other potentially infectious materials as defined by the provisions.

1102.05 License Display

The valid license shall be prominently displayed in the body art establishment where it may be readily observed by clients. It shall not be defaced or altered in any manner.

1102.06 License Entitlement

Only body art establishments who comply with the provisions of this regulation shall be entitled to obtain and keep a license.

1102.07 Separate License Requirements

A separate license shall be required for each body art establishment.

1102.08 Non-transferable License

A body art establishment license shall not be transferable from one establishment/operator to another.

1102.09 Definition of Permanent and Temporary Body Art Establishments

For the purpose of this regulation, the definition, license and operating requirements for body art establishments is applied to both temporary and permanent body art establishments, unless otherwise distinguished. See Sections 1101.31; 1102.10; 1102.16 (4); 1103.01 (2).

1102.10 License Period for Temporary and Permanent Body Art Establishments

- (1) A license for a permanent body art establishment shall be issued for a term beginning February 1st, and /or before commencement of operation, and expiring January 31st of the following year, and shall be applied for by the operator annually.
- (2) A license for a temporary body art establishment shall be for the term of one continuous operation at a fixed location for no more than 14 consecutive days, and shall be applied for by the operator of the establishment. No more than four (4) temporary licenses are allowed in a twelve (12) month period. License and plan review applications along with the appropriate information and fees must be submitted a minimum of 10 (ten) working days prior to the event taking place.

1102.11 License Content

Any license issued by the Health Officer shall contain:

- (1) Name and address of the operator to whom the license is granted;
- (2) The location of the establishment for which the license is issued;
- (3) The issuance and expiration date(s); and
- (4) Any other pertinent data as may be required by the Department.

1102.12 Application

A person desiring to operate a body art establishment shall submit to the Department a written application for a license on the form provided by the Department.

1102.13 Application Content

The application shall include at a minimum:

- (1) Name, address, telephone number, and original signature of the operator applying for the license;
- (2) Name, address, and telephone number of the body art establishment;
- (3) Name, address, phone number, photo identification and proof of attendance at a bloodborne pathogen training program and all relevant industry training as deemed relevant by the Health Officer of all employees engaged in tattooing or body piercing at the body art establishment; and
- (4) A statement signed by the applicant that:
 - a) Attests to the accuracy of the information provided in the application, and
 - b) Affirms that the applicant will:
 1. Comply with this Regulation, and
 2. Allow the Department access to the body art establishment and records.

1102.14 Qualifications

To qualify for a license, the applicant must:

- (1) Be an operator of the body art establishment;
- (2) Comply with the requirements of this Regulation;
- (3) Agree to allow access to the body art establishment and provide required information; and
- (4) Pay the applicable plan review and license fees at the time the application is submitted.

1102.15 Plan Requirements for Body Art Establishments

- (1) The operator of a proposed body art establishment shall submit to the Department:
 - (a) Properly prepared plans and specifications for review and approval before the construction of a structure, or conversion of an existing structure, for use as a body art establishment;
 - (b) Proof of contract with infectious waste removal company; and
 - (c) Copy of approved bloodborne pathogen and first aid training for all employees engaged in tattooing or body piercing.
- (2) The plans and specifications for a body art establishment must be deemed satisfactory and approved by the Department before a license can be issued.

- (3) Prior to operation, a pre-operational inspection shall be conducted to ensure that the establishment is built or remodeled in accordance with the approved plans and specifications, and to ensure that the establishment is in compliance with this regulation.
- (4) The operator is responsible for demonstrating and ensuring that all other local agency regulations are complied with, such as, but not limited to, zoning and business license requirements, and building permits.
- (5) The operator must demonstrate compliance with all of the provisions of this Regulation, including the Minimum Standards for Body Art Establishments.

1102.16 License Exemptions and Prohibitions

- (1) State of Michigan licensed physicians who utilize tattooing or body-piercing procedures as part of patient treatment are exempt from licensing requirements.
- (2) Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear-piercing system are exempt from licensing requirements.
- (3) The following practices are prohibited in a body art establishment:
 - a. Tongue splitting
 - b. Branding
 - c. Braiding
 - d. Scarification
 - e. Three dimensional beading/implantation
 - f. Tooth filing/fracturing/removal
 - g. Amputation
 - h. Genital modification
 - i. Introduction of saline or other liquids
 - j. Any other medical procedure required to be performed by a State of Michigan licensed physician.
- (4) Temporary body art establishments shall use only disposable, sterile single use tattooing instruments. Autoclaving to achieve sterilization at a temporary event is prohibited. The disposable instruments include but are not limited to the following:
 - a. Tattooing needles
 - b. Piercing needles
 - c. Tattooing barrels/tubes
 - d. Receiving tubes
 - e. Forceps
 - f. Razors

1102.17 License Fees

The fees for body art establishment licenses, and such other activities described in these regulations, shall be established by the Livingston County Board of Commissioners in accordance with Section 2444 of the Public Health Code, MCL 333.2444.

SECTION 1103.0 OPERATION STANDARDS FOR BODY ART ESTABLISHMENTS

1103.01 Inspections

- (1) The Health Officer shall have the authority to inspect every premise and location where body art is being carried out within the jurisdiction of the Department as often as deemed necessary for the enforcement of this regulation. The Health Officer may at any reasonable time make inspections of the body art establishment to ensure compliance with this regulation. A minimum of two (2) inspections shall be conducted annually for permanent establishments.
- (2) Temporary body art establishments shall not begin operation until a license to operate is issued and an opening inspection has been conducted and approved. The Department may conduct follow-up inspections as deemed necessary during the time that the temporary license is effective and body art is being carried out.
- (3) No person shall refuse to permit the Health Officer, with proper identification, to inspect any body art establishment at reasonable hours, nor shall any person impede or impair a Department representative from carrying out his or her duties as authorized under this regulation.

1103.02 Public Education Notification and Reporting Requirements

- (1) The body art establishment operator shall ensure that verbal and written public education information is given to all clients wanting to receive a body art procedure. Verbal and written instructions for the aftercare of the body art procedure site shall be provided to each client by the technician upon completion of the procedure. Written aftercare information shall first be submitted for pre-approval by the Department as to accuracy and completeness. These instructions shall at a minimum include:
 - a. Responsibilities and care following the procedure
 - b. Restrictions, if any, upon the client
 - c. Signs and symptoms of infection
 - d. Instructions to consult a physician at the first sign of infection
 - e. The ink/dye/pigment applied, if applicable, and when available, the manufacturer or catalog identification number of each color applied
 - f. The Department phone number where a complaint can be madeThese documents shall be signed and dated by both parties, with a copy given to the client and the licensed establishment retaining the original with all other required records.
- (2) Proof shall be provided upon request of the Department or clients that all technicians have either completed or were offered and declined, in writing, the Hepatitis B Vaccination series, and such other vaccination or educational requirements as may be required by the Department.

1103.03 **Client Records**

- (1) The operator shall obtain the client's informed consent to the body art procedure. The technician shall provide the client with a consent form describing the risks associated with the body art procedure.
- (2) The body art establishment shall keep a record of all persons who have had body art procedures performed. The records for each patron shall be maintained for three (3) years and shall be made available upon request to the Department. The records shall include at a minimum:
 - (a) Patron's name;
 - (b) Address;
 - (c) Age; must be verified by one (1) photo identification item or two (2) non-photo identification items, copied by the operator/technician and retained with the client record;
 - (d) Date the body art procedure was performed;
 - (e) Design and description of the body art procedure;
 - (f) Location of the tattoo or piercing on the client;
 - (g) Name of the technician performing the procedure; and
 - (h) Parental/ legal guardian consent in accordance with Section 13102 of the Public Health Code, MCL 333.13102, for all body art performed on a minor. Photographic identification of the parent or legal guardian shall be provided, copied and retained with the client record

**SECTION 1104.0 OPERATORS and BODY ART TECHNICIAN
MINIMUM TRAINING REQUIREMENTS and RESPONSIBILITIES**

1104.01 **Operators**

An operator of a body art establishment shall comply with the following:

- (1) Ensure that approved training has been provided regarding blood-borne Pathogens for body art technicians, and basic first aid to anyone employed by the body art establishment, or anyone acting on behalf of the body art establishment who has a reasonably anticipated risk for skin, eye, mucous membrane, or contact with blood or OPIM.
- (2) Maintain a record of training described as above. The record shall be made available to the Department for inspection upon request and must also be provided under the licensing and plan review provisions of this Regulation.
- (3) Ensure that training on the handling of infectious waste in accordance with the Medical Waste Regulatory Act, Part 138, 1978 PA 368, as amended, MCL 333.13801 *et seq.*, is provided to all body art technicians or anyone acting on behalf of the body art establishment who has a reasonably anticipated risk for skin, eye or mucous membrane contact with blood or OPIM.
- (4) Ensure that their personnel meet basic standards of body art technician's knowledge, skills and abilities to perform body art procedures by establishing their own minimum training requirements.

- (5) Maintain a record showing that all technicians have either completed or were offered and declined, in writing, the Hepatitis B Vaccination series, and such other vaccination series that may be required by the Department. The offering of Hepatitis B Vaccination series shall be included as a pre-employment requirement.
- (6) Ensure that no illicit drugs or alcohol are consumed in the body art establishment
- (7) Ensure that no tattoo or body piercing shall be affixed to or performed on any person who is intoxicated.
- (8) Ensure that no tattoo or body-piercing procedures are performed on patrons who indicate the presence of a condition that could affect the healing process, without documentation from a licensed physician indicating acceptance of the patient for appropriate care following the procedure.

1104.02 Technicians

A body art technician shall comply with the following:

- (1) Technicians shall be a minimum of eighteen years of age.
- (2) It shall be unlawful for any technician or person to perform body art procedures unless such procedures are performed in a body art establishment with a current license.
- (3) Prior to tattooing and body piercing, the body art technician who will be performing the procedure shall inquire of a patron about conditions that could affect the healing process.
- (4) A technician shall maintain a high degree of personal cleanliness, wear clean clothing, follow universal precautions procedures, and conform to infection control procedures when performing body art procedures.

SECTION 1105.0 ENFORCEMENT OF THE REGULATION

1105.01 Schedule of Monetary Civil Penalties:

Under the authority of Section 2461 of the Public Health Code, MCL 333.2461, the following schedule of monetary civil penalties for violations of this regulation is adopted:

- (1) Operation without a current license \$500
- (2) Construction of a body art establishment without approved plans \$500
- (3) Failure to comply with sterilization procedures \$500
- (4) Failure to practice universal precautions \$500
- (5) Failure to maintain client records as required by this regulation \$500
- (6) Performing body art without proper informed consent \$500
- (7) Performing body art on a minor without consent by a parent or guardian \$1000
- (8) Performing regulated body art activities at a location not licensed \$500

1105.02 Assessment of Civil Monetary Penalties

- (1) Each day that a violation exists shall be deemed a separate offense. Monetary civil penalties shall not be assessed for more than one day a violation exists, unless and until notice of the violation has been provided to the violator.
- (2) A civil penalty may be appealed to the Department within 20 days of receipt of the citation, in accordance with Section 2462 of the Public Health Code, MCL 333.2462. A civil penalty is payable to the Department.

1105.03 Violation Misdemeanor

- (1) Any person who violates this regulation is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than two hundred dollars (\$200), or both, as provided in Section 2441(2) of the Public Health Code, MCL 333.2441(2).
- (2) Each day that a violation exists shall be deemed a separate offense.

1105.04 Order of Immediate Discontinuance

The Health Officer has the authority to order the operator to immediately close the body art establishment, or cease body art activity, if it is determined that an imminent or substantial hazard exists. An imminent or substantial hazard may include but is not limited to: loss of electricity, interruption of water service, sewage back up, fire, flood and/or inability to sterilize equipment used to perform body art procedures.

1105.05 Critical Violation

The following violations of the regulation are considered critical violations. Critical violations must be corrected immediately or at a specified time as determined by the Department at the time the violation was noted. Critical violations include, but are not limited to, the following:

- (a) Failure to adequately sterilize and sanitize equipment.
- (b) Failure to appropriately use single use equipment.
- (c) Failure to practice universal precautions.
- (d) Failure to maintain client or technician records.
- (e) Failure to obtain informed consent prior to performing body art procedures
- (f) Performing body art on a minor without consent by parent or legal guardian.

1105.06 License Suspension and Revocation

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

- (a) In the event of one or more critical violations, as defined in Section 1105.05, the licensee will be given notification, in writing, of provisions for license suspension or revocation in the event of additional or further violations; and
- (b) Decisions of the Department may be appealed in accordance with the provisions of Chapter II of the Livingston County Sanitary Code Appeals Procedure.
- (c) For serious or repeated violations of the requirements of this regulation, the Department may permanently revoke a license. Before issuing a permanent revocation, the Department shall give notice to the holder in writing of its intent and the reasons for revocation. A person who has been denied or had a license revoked as required by this regulation shall have the right of appeal in accordance with the appeal provisions of Chapter II of the Livingston County Sanitary Code.

EFFECTIVE DATE

Chapter XI of the Livingston County Sanitary Code entitled Regulation to Require A License to Operate a Body Art Establishment and the Livingston County Minimum Standards for Body Art Establishments is effective February 1, 2008.