

CHAPTER 3
SUNTANNING SALONS, PUBLIC AND SEMI PUBLIC SWIMMING POOLS,
BODY ART, HEALTH CLUBS AND HOTELS/MOTELS

SECTION 1 SUNTANNING SALON ESTABLISHMENTS: Suntanning Salons shall meet the following requirements:

3.1.001 No establishment shall operate a Suntanning Salon without first obtaining a permit from the Board of Health. Proper plans drawn to a scale of 1/4 inch = 1 foot must be submitted to the Board of Health for review and approval. All rooms must be identified and must be of sufficient size to accommodate a suntanning device. Permits shall expire on December 31st of each year. A permit holder must apply for a permit renewal at least thirty (30) days prior to the expiration of said permit.

3.1.002 Accurate timers shall be installed to turn off the lamps after the manufacturer's recommended exposure time there shall be an attendant present to monitor the operation of each individual tanning booth/bed. Shields shall be provided to protect users from coming in contact with the lamps and physical aids shall be provided to keep the user at the proper exposure distance. Temperature of suntanning booths/beds shall be maintained below one hundred (100) degrees Fahrenheit.

3.1.003 Protection against electrical shocks and fires shall be provided and comply with all state and local regulations. Physical aids, such as handrails, shall be provided to help prevent falls.

3.1.004 Non-Transferable towels/cloths must be provided for patron use. All tanning devices must be cleaned and sanitized with disposable towels or clothes. Reusable towels or clothes are not allowed for cleaning tanning devices.

3.1.005 Tanning booths/beds shall have a prominently displayed eight (8) inch by ten (10) inch easily legible warning that states:

**“DANGER – ULTRAVIOLET RADIATION – FOLLOW INSTRUCTIONS, REPEATED
EXPOSURE MAY CAUSE SKIN CANCER”**

As with natural sunlight overexposure can cause eye injury and sunburn. Repeated exposure may cause premature aging of the skin and skin cancer. Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light. Consult a physician before using lamp is taking any medication or if you believe yourself sensitive to sunlight. Pregnant women should consult with their obstetrician.”

3.1.006 Each suntanning booth/bed shall have, for the patron's use, goggles of sufficient quantity to protect the user's eyes from the direct exposure to the sunlamp. Proper eye protection shall be worn when using the tanning devices.

3.1.007 The owner or operator of said establishment is required to set aside an area to be designated as emergency aid station. There shall be a trained attendant on duty during all hours that said activity is in actual operation. The attendant shall be required to be certified in the proper operation of suntanning equipment by a recognized authority approved by the Board of Health. A non-pay telephone shall be installed in the emergency aid station and first aid equipment that is deemed necessary to insure the safety of the general public.

3.1.008 No person under eighteen (18) years of age may use these facilities.

3.1.008 (a) Tanning facility operators shall provide a written warning to consumers on a notification form provided by the Department of Public Health. Every prospective user of a tanning device must sign the form to acknowledge they understand the warning. The tanning operator and, where possible, a witness,

must also sign. Prospective users must sign the form prior to their first tanning session and every six (6) months thereafter.

3.1.009 The fee for Suntanning Salon Establishment's Permit shall be in accordance with the current Board of Health fee schedule. All permits shall expire on December 31st to be renewed on or before January 1st of each year. All permits cannot be sold, assigned, or transferred.

3.1.010 The Board of Health adopts by reference the Massachusetts State Sanitary Code, 105CMR123.000 as it exists at the time of adoption of this regulation (3/24/03) and further adopts by reference any and all future amends of 105CMR123.000.

SECTION 2 PUBLIC AND SEMI PUBLIC SWIMMING POOLS

3.2.001 In order to provide the best protection for swimmers/bather in pools regulated by the Board of Health; lifeguards/pool attendants shall be required to be on duty at all times the pool is in operation. **Lifeguards are preferred by the Board of Health.** If pool attendants are used, the following conditions must be complied with:

- (1) The attendant must direct his or her attention to all persons in the pool while on duty and must be in constant attendance during bathing hours. The attendant must be isolated from pool crowds and overseeing bathers from the deck of the pool. If the pool attendant is unavailable or away from the pool area, the pool area will be closed for the interim.
- (2) An Emergency Response System Alarm is wired from the pool area into at least, but not limited to, two (2) manned stations.
- (3) The Emergency Response Alarm is activated prior to the attendant entering the pool in an emergency.
- (4) An Emergency Response Policy is written which must be approved by the Board of Health. This policy must be understood by ALL personnel.
- (5) The Emergency Response Policy is available for the public review.
- (6) A sign in log is kept of all swimmers using the pool including the entry and departure time.
- (7) It is clearly posted in multiple locations, that a lifeguard is not on duty and a pool attendant will be observing all pool activity.
- (8) Pool attendants may only be used in pools with a depth of (5) feet or less. All pools over 5 feet in depth must use a lifeguard.
- (9) If pool attendants are used, then there must be at least one (1) pool attendant for each 25 bathers.

3.2.001 (a) During hours of swimming lessons or instructions a lifeguard or pool attendant must still be present on the pool deck, overseeing the bathers as stated in regulation 3.11.001(1).

3.2.002 All pool attendants must have as a minimum the following training:

- (a) CPR Training (to include chokesaver training)
- (b) First Aid Training
- (c) Physical ability to remove an adult out of water that is 5 feet deep. This must be verified and documented by either the Certified Pool Operator or qualified CPR or lifeguard instructor.

If the above criteria are not met for pool attendants, a lifeguard is mandatory.

3.2.003 The Board of Health adopts the Massachusetts State Sanitary Code, Chapter V, 105CMR435.000 related to Public and Semi Public Swimming Pools by reference as a local regulation.

SECTION 3 BODY ART, BODY PIERCING, BODY TATTOOING

3. 3. 001 PURPOSE

The Billerica Board of Health is promulgating rules and regulations in the form of this Body Art Regulation 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 this Body Art Regulation, the Board of Health has determined that these rules and regulations are necessary to protect the public's health by preventing disease, including, but not limited to, the transmission of hepatitis B and/or human immunodeficiency virus (HIV/AIDS).

In addition, this Body Art Regulation establishes a requirement for registration and a procedure for the registration with the Board of Health of the Town of Billerica 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 this, or for other means of enforcement of the provisions of this Body Art Regulation.

3.3.002 DEFINITIONS

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

(1) **AFTERCARE INSTRUCTIONS** shall mean written instructions, approved by the Board of Health, 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.

(2) **ANTISEPTIC** shall mean an agent that destroys disease-causing microorganisms on human skin or mucosa.

(3) **AUTOCLAVE** shall mean an apparatus for sterilization utilizing steam pressure at a specific temperature over a designated period of time.

(4) **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 250 degrees Fahrenheit.

(5) **BODY ART** shall mean the practice of physical body adornment, alteration or modification by permitted establishments and licensed practitioners using, but not limited to, the following techniques: piercing, tattooing, cosmetic tattooing, branding, or scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine in the Commonwealth, such as implants under the skin or braiding, which shall not be performed in a Body Art Establishment.

(6) **BODY ART ESTABLISHMENT** shall mean any facility that has been inspected and approved by the Board of Health for use in conducting of Body Art activities and for which a current Permit is issued by the Board of Health in accordance with Billerica Board of Health Rules and Regulations.

(7) **BODY ART PRACTITIONER** shall mean a person who has received a License to perform Body Art activities by the Board of Health pursuant to Billerica Board of Health Rules and Regulations.

(8) BODY ART PRACTITIONER LICENSE shall mean a License issued by the Board of Health to a person qualified to engage in the practice of Body Art in accordance with these regulations.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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 the Billerica Board of Health Rules and Regulations.

(15) 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. This term includes microblading and permanent make-up.

(16) 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.

(17) 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.

(18) DISINFECT shall mean the destruction of pathogenic microorganisms using a Liquid Chemical Germicide.

(19) DISINFECTANT shall mean the same as Liquid Chemical Germicide.

(20) DERMIS shall mean the deeper, thicker portion on the skin lying beneath the epidermis, to include the subcutaneous layer.

(21) 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 manufacturer's instructions.

(22) 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.

(23) 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.

(24) EXPOSURE shall mean an event whereby there is an eye, mouth or other mucous membrane, nonintact 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.

(25) 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.

(26) EXPOSURE INCIDENT REPORT shall mean a written report detailing the circumstances of an Exposure.

(27) GERMICIDE or GERMICIDAL SOLUTION shall mean the same as Liquid Chemical Germicide.

(28) HAND SINK shall mean a sink supplied with hot and cold potable water under pressure which used solely for washing hands, arms, or other portions of the body.

(29) HOT WATER shall mean water which is heated to attain and maintain a temperature of between 110° and 130° F.

(30) INFECTIOUS WASTE shall mean the same as Contaminated Waste.

(31) 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.

(32) 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.

(33) 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.

(34) JEWELRY shall mean any device or adornment inserted into a pierced or incised area or portion of the body.

(35) LICENSE shall mean a document issued by the Board of Health pursuant to Billerica Board of Health Rules and Regulations authorizing a person to conduct allowed Body Art procedures in the Town of Billerica.

(36) 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.

(37) MINOR or MINOR CLIENT shall mean a person of less than 18 years of age as of that person's last birth date.

(38) 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.

(39) OPERATOR shall mean any person alone or jointly with other persons who owns, controls, operates or manages a Body Art Establishment.

(40) PARENTERAL shall mean the invasion of the skin barrier or mucous membranes.

(41) PERMIT shall mean a document issued by the Board of Health pursuant to these Rules and Regulations authorizing the use of a facility for the conducting of Body Art activities.

(42) PHYSICIAN shall mean a person licensed by the Commonwealth of Massachusetts in accordance with Massachusetts General Law Chapter 112 Section 2.

(43) 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.

(44) PROHIBITED FORMS OF BODY ART shall refer to those forms of Body Art prohibited under these regulations and set forth in Section 3.3.014.

(45) SANITIZE shall mean the process of reducing the number of microorganisms on a surface to a safe level using a Liquid Chemical Germicide.

(46) SANITIZER shall mean the same as Liquid Chemical Germicide.

(47) SCARIFICATION shall refer to that a form of Body Art that requires the use of an instrument to cut a design into the skin to produce a scar.

(48) 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 and lancets.

(49) SHARP'S 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.

(50) 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.

(51) 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 Board of Health for use for Sterilization in a Body Art Establishment.

(52) STERILIZE shall mean to effectively kill all microorganisms, including bacterial spores.

(53) 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.

(54) TATTOOING shall mean the act or process of creating a tattoo. This term includes all forms of cosmetic tattooing.

(55) TATTOO GUN shall mean an electric, vertically vibrating tool used for tattooing.

(56) TATTOO INKS/PIGMENTS/DYES or INKS/PIGMENTS/DYES shall mean the metal or saltbased substance injected into the subcutaneous portion of the skin in the act or process of creating a tattoo.

(57) TEMPORARY BODY ART ESTABLISHMENT shall mean the same as Mobile Body Art Establishment.

(58) 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. These terms does not include Body Piercing.

(59) ULTRASONIC CLEANING UNIT shall mean a unit approved by the Board of Health 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.

(60) 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.

(61) WORKSTATION shall mean an area within a Body Art Facility designated for use in the conducting of Body Art activities.

3.3.003 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 Billerica Board of Health pursuant to these Rules and Regulations.

3.3.004 BODY ART - 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 Board of Health in accordance with these Rules and Regulations.

3.3.005 EXEMPTIONS

(a) Physicians who practice Body Art activities as a part of patient treatment are exempt from the provisions of this Body Art Regulation 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 this Body Art Regulation.

3.3.003 COMMONWEALTH OF MASSACHUSETTS - REGISTRATION OR LICENSING

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

3.3.007 BODY ART PRACTITIONER

3.3.007 (1) APPLICATION - REGISTRATION - BODY ART PRACTITIONER LICENSE

3.3.007 (2) BODY ART PRACTITIONER LICENSE - COMPLIANCE WITH MINIMAL TRAINING REQUIREMENTS

3.3.007 (3) HEPATITIS B VACCINATION STATUS – DISCLOSURE

3.3.007 (4) HYGIENE

3.3.007 (5) MINIMAL EDUCATIONAL REQUIREMENTS

3.3.007 (6) BLOOD BORNE PATHOGEN TRAINING COURSE – CONTENT

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3.3.007 (8) BODY ART PRACTITIONER LICENSE - BOARD OF HEALTH AUTHORIZED TO ISSUE

3.3.007 (9) BODY ART PRACTITIONER LICENSE - ACTING WITHIN SCOPE OF LICENSE

3.3.007 (10) BODY ART PRACTITIONER LICENSE - POSTING REQUIREMENT

3.3.007 (11) BODY ART PRACTITIONER - IMPAIRMENT BY DRUGS OR ALCOHOL

3.3.007 (12) RESTRICTION OF CERTAIN BODY ART ACTIVITIES

3.3.007 (13) STERILE CONDITIONS

3.3.007 (14) RASH, LESION OR VISIBLE SIGN OF INFECTION

3.3.007 (15) USE OF LICENSED FACILITY

3.3.007 (16) BODY ART PRACTITIONER - USE OF MOBILE OR TEMPORARY BODY ART ESTABLISHMENT – PROHIBITED

3.3.007(1) APPLICATION -REGISTRATION - BODY ART PRACTITIONER LICENSE

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

3.3.007(2) APPLICATION - BODY ART PRACTITIONER LICENSE - COMPLIANCE WITH BODY ART REGULATION REQUIREMENTS

An applicant for a Body Art Practitioner License shall demonstrate to the Board of Health his/her successful compliance with all training, disclosure, consent and educational requirements of these Rules

and 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 Board of Health.

3.3.007(3) 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 Board of Health, 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 Massachusetts General Law Chapter 76 §15.

3.3.007(4) 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.

3.3.007(5) 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 Board of Health 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, Cosmetic Tattooing, Branding and 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 or program as the Board of Health 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) Any of the following may be used to document satisfactory evidence of actual experience in the Board Art for which the applicant seeks a license to perform:

(a) Evidence satisfactory to the Board of Health of at least two years actual experience in the practice of performing Body Art activities of the kind for which the applicant seeks a Body Art Practitioner License to perform, whether such experience was obtained within or outside of

the Commonwealth of Massachusetts, or

(b) Evidence of a completed apprenticeship program as approved by the Commonwealth of Massachusetts or the Board of Health, with instruction in the kind of Body Art for which the applicant seeks a Body Art Practitioner License to perform, or

(c) Applicants for cosmetic tattoo only (microblading, micropigmentation, permanent makeup, etc.) who do not have any of the above documentation (3.3.007(5)(5)(a)-(b)) may instead provide all the following:

- Certificate of successful completion/passing a training course of at least 100 hours of instruction time and certified/accredited by either the American Academy of Micropigmentation (AAM) or the Society of Permanent Cosmetic Professionals (SPCP).
- The applicant must also provide documentation of the training course including the training institution contact information, documentation of AAM or SPCP certification/accreditation, and a copy of the course curriculum (schedule or table of content only, not complete materials) showing that the course content includes, at a minimum:
 - Overview of relevant anatomy and physiology
 - Sanitation, hygiene, and disinfection including infection control and needle stick procedures
 - Taking a client's medical history and contraindication to body art
 - Equipment operation and maintenance
 - Anesthetics
 - Color theory and aesthetics
 - Detailed training on each procedure
 - Hands-on practice of at least 4 complete procedures (two eyebrows is a single procedure) on living clients

3.3.007(6) BLOOD BORNE PATHOGEN TRAINING COURSE – CONTENT

Any course taken by an applicant to fulfill the requirements set forth in these Rules and 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 Autoclaves 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 describe 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 Board of Health.

3.3.007(7) BODY ART PRACTITIONER LICENSE - CONSENT TO COMPLY WITH BODY ART REGULATION

An applicant for a Body Art Practitioner License shall sign a statement provided by the Board of Health consenting to and agreeing to abide by all of the provisions of these regulations.

3.3.007(8) BODY ART PRACTITIONER LICENSE – BOARD OF HEALTH AUTHORIZED TO ISSUE

(1) If an applicant for a Body Art Practitioner License demonstrates compliance with section 3.3.007(5) (1) and all other provisions of 3.3.007 *et seq* of this Body Art Regulation, excepting only section 3.3.007 (5) (2), than the Board of Health is hereby authorized to issue a Body Art Practitioner License pursuant to the provisions of this Body Art Regulation which authorizes the applicant to conduct Body Art activities consisting only of Body Piercing, Tattooing, Branding and Scarification.

(2) If an applicant for a Body Art Practitioner License does not demonstrate compliance with section 3.3.007 (5) (1) of this Body Art Regulation, but does demonstrate compliance with section 3.3.007 (5) (2) and with all other provisions of section 3.3.007 *et seq* of this Body Art Regulation, than the Board of Health is hereby authorized to issue a Body Art Practitioner License pursuant to the provisions of this Body Art Regulation that authorizes the applicant to conduct Body Art activities consisting only of Tattooing, Branding and Scarification.

3.3.007(9) 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 Board of Health.

3.3.007(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 Board of Health and to Clients the original of the current Body Art Practitioner License of the Body Art Practitioner.

3.3.007(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.

3.3.007(12) RESTRICTION OF CERTAIN BODY ART ACTIVITIES

No Body Art Practitioner shall:

- (1) Tattoo a Minor Client;
- (2) Brand a Minor Client;
- (3) Scar or perform Scarification upon a Minor Client;
- (4) Pierce the genitalia of a Minor Client;
- (5) 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 Section 3.3.014.

3.3.007(13) STERILE CONDITIONS

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

3.3.007(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.

3.3.007(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 Regulation.

3.3.007(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.

3.3.008 APPRENTICESHIP PROGRAM

3.3.008(1) APPRENTICESHIP PROGRAM – DIRECTOR OF PUBLIC HEALTH _ AUTHORIZED TO ESTABLISH

3.3.008(2) COMPLIANCE WITH THIS BODY ART REGULATION

3.3.008(3) DEFINITIONS

3.3.008(4) APPRENTICESHIP PROGRAM – MINIMUM REQUIREMENTS

3.3.008(5) APPRENTICESHIP LICENSE – BOARD OF HEALTH AUTHORIZED TO ISSUE

3.3.008(1) APPRENTICESHIP PROGRAM – DIRECTOR OF PUBLIC HEALTH _ AUTHORIZED TO ESTABLISH

The 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 Massachusetts General Law Chapter 111, Section 31, and pursuant to the authority granted hereunder, is hereby empowered and authorized to establish a Body Art Practitioner License Apprenticeship Program.

3.3.008(2) COMPLIANCE WITH THIS BODY ART REGULATION

Any Body Art Practitioner License Apprenticeship Program established under the authority of section 3.3.008(1) of this Body Art Regulation shall require that all participants in such program adhere to and abide by all relevant provisions of this Body Art Regulation excepting only sections 3.3.007 (5) and 3.3.007 (6).

3.3.008(3) DEFINITION

For the purposes of 3.3.008 (2) of this Body Art Regulation and, where the context so requires, for purposes of the Body Art Practitioner License Apprenticeship Program established by the Board of Health pursuant to section 3.3.008 (1) of this Body Art Regulation, 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.”

3.3.008(4) APPRENTICESHIP PROGRAM - MINIMUM REQUIREMENTS

As a minimum requirement of the Body Art Practitioner License Apprenticeship Program established by the Board of Health, the Board of Health shall require that each participant in such program shall be required to complete the requirements of section 3.3.007(5) (1) through (4) inclusive and 3.3.007(6) of this Body Art Regulation prior to a participant in such program conducting any form of Body Art activity upon a Client or the person of another.

3.3.008(5) APPRENTICESHIP LICENSE – BOARD OF HEALTH AUTHORIZED TO ISSUE

The Board of Health 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 3.3.008(1) of this Body Art Regulation provided each such participant qualifies for the same pursuant to the provisions of this Body Art Regulation and the Body Art Practitioner License Apprenticeship Program.

3.3.008(6) 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 3.3.009(2) of this Body Art Regulation and such written consent shall be maintained therewith.

3.3.009 CUSTOMERS / CLIENTS

3.3.009(1) APPLICATION AND CONSENT FORM FOR BODY ART ACTIVITY – REQUIREMENT

3.3.009(2) APPLICATION AND CONSENT FORM FOR BODY ART ACTIVITY – CONTENT

3.3.009 (3) DISCLOSURE OF CERTAIN HEALTH RELATED INFORMATION

3.3.009 (4) IMPAIRMENT BY DRUGS OR ALCOHOL

3.3.009 (5) AFTERCARE INSTRUCTIONS – REQUIREMENT

3.3.009 (6) AFTERCARE INSTRUCTIONS - MINIMUM CONTENT

3.3.009 (7) AGE RESTRICTION FOR CERTAIN BODY ART ACTIVITIES

3.3.011 (8) RASH, LESION OR VISIBLE SIGN OF INFECTION

3.3.009(1) APPLICATION AND CONSENT FORM FOR BODY ART ACTIVITY – REQUIREMENT

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

3.3.009(1) APPLICATION AND CONSENT FORM FOR BODY ART ACTIVITY – REQUIREMENT

Every application and consent form, required by 3.3.009 (1) of this Body Art Regulation, 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, 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 a 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 the conduct of the contemplated Body Art activity upon the Minor Client;
- (4) The type of the 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 Board of Health 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 Board of Health 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 or Minor Client and that Practitioner's Board of Health 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.

3.3.009(3) DISCLOSURE OF CERTAIN HEALTH RELATED INFORMATION

- (a) A Client shall inform the Body Art Practitioner of any known chronic medical or communicable conditions, including, but not limited to the following:
 - (1) Diabetes;
 - (2) History of hemophilia (bleeding);
 - (3) History of skin disease, skin lesions or skin sensitivities to soap, Disinfectants, etc.;
 - (4) History of allergies or adverse reactions to pigments, dyes or other skin sensitivities;
 - (5) History of epilepsy, seizures, fainting or narcolepsy;
 - (6) The taking of medications such as aspirin or other anticoagulants, which thin the blood and or interfere with blood clotting.
 - (7) History of or suspicion of adverse reaction to latex or products containing latex.
- (b) A Client shall inform the Body Art Practitioner of a known pregnancy or possibility of pregnancy.
- (c) The Body Art Practitioner shall require the Client to sign a release form confirming that the above information was obtained or attempted to be obtained and the Client refused to disclose the same.

3.3.009(4) IMPAIRMENT BY DRUGS OR ALCOHOL

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

3.3.009(5) AFTERCARE INSTRUCTIONS

All Clients shall obtain and read and follow the Board of Health approved Aftercare Instructions appropriate for the form of Body Art conducted upon such person.

3.3.009(6) AFTERCARE INSTRUCTIONS - MINIMUM CONTENT

Aftercare Instructions shall be approved by the Board of Health 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; and,
- (4) Instructions to contact a physician if possible signs of infection occur;

3.3.009(7) AGE REQUIREMENTS 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.
- (5) No Client under 14 years of age shall be pierced with the sole exception of Ear Piercing.

3.3.009(8) 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.

3.3.010 BODY ART ESTABLISHMENTS

3.3.010(1) APPLICATION - REGISTRATION - BODY ART ESTABLISHMENT PERMIT

3.3.010(2) PLANS

3.3.010(3) WORKSTATION

3.3.010(4) SEPARATE AREAS

3.3.010(5) WALLS – FLOORS – CEILINGS

3.3.010(6) ELECTRICAL WIRING

3.3.010(7) LIGHTING AND VENTILATION

3.3.010(8) PLUMBING

3.3.010(9) TOILET ROOMS

3.3.010(10) HAND WASHING SINKS

3.3.010(11) JANITORIAL SINKS

3.3.010(12) INSTRUMENT SINKS

3.3.010(13) EXPOSURE CONTROL PLAN – REQUIREMENT

3.3.010(14) EXPOSURE CONTROL PLAN – SUBMISSION

3.3.010(15) TELEPHONE ACCESS – EMERGENCY COMMUNICATION

3.3.010(16) BODY ART ESTABLISHMENT – OTHER ACTIVITIES – RESTRICTIONS

3.3.010(17) BODY ART ESTABLISHMENT – PERMIT – BOARD OF HEALTH AUTHORIZED TO ISSUE

3.3.010(18) BODY ART ESTABLISHMENT – PERMIT – POSTING REQUIREMENT

3.3.010(19) MOBILE OR TEMPORARY BODY ART ESTABLISHMENT

3.3.010(20) HEALTH OF BODY ART ESTABLISHMENT EMPLOYEES

3.3.010(1) APPLICATION - REGISTRATION - BODY ART ESTABLISHMENT PERMIT

A person seeking registration under this Body Art Regulation so as to obtain a Body Art Establishment Permit shall submit a completed application provided by the Board of Health and shall pay to the Town of Billerica a fee in accordance with the most current Board of Health fee schedule. A Body Art Establishment Permit shall be valid for no more than one year. The Board of Health may renew a Body Art Establishment Permit under this Body Art Regulation and each applicant for such renewal shall pay to the Town of Billerica a renewal fee in accordance with the most current Board of Health fee schedule. All Body Art Establishment Permits shall expire on December 31 of the year of issuance.

3.3.010(2) PLANS

Every Operator or applicant for a Body Art Establishment Permit shall submit to the Board of Health 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 Rules and Regulations. The Board of Health may require an on-sight inspection of the proposed facility to determine and/or ensure compliance

with requirements prior to the issuance by the Board of Health of a Body Art Establishment Permit.

3.3.010(3) WORKSTATION

- (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.
- (f) A Workstation shall be maintained in a clean and Sterile condition.

3.3.010(4) 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.
- (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.

3.3.010(5) 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 Board of Health 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 Board of Health and shall be maintained in good repair free of any holes or cracks;
 - (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 this Body Art Regulation, “light-colored” shall mean a light reflectance value of 70 percent or greater.

3.3.010(6) 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.

3.3.010(7) 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.

3.3.010(8) 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 Board of Health-approved private sewage disposal system.
- (c) An adequate pressurized potable water supply shall be provided to every Body Art Establishment.
- (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.

3.3.010(9) 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 closet or toilet stall.
- (e) Toilet rooms shall not be used for the storage of Instruments or other supplies used for Body Art activity.
- (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 Board of Health approved toilet facilities are located in the retail shopping center within 300 feet the Body Art Establishment so as to be readily accessible to any Client or Body Art Practitioner.

3.3.010(10) 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, liquid hand cleanser, single-use sanitary towels in devices for dispensing, and a waste container of washable construction.
- (c) A Hand Washing Sink shall not be used as a Janitorial Sink.

3.3.010(11) 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 this Body Art Regulation, 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.

3.3.010(12) 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.

3.3.010(13) EXPOSURE CONTROL PLAN – REQUIREMENT

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

3.3.010(14) EXPOSURE CONTROL PLAN - SUBMISSION.

(a) The Exposure Control Plan for a Body Art Establishment shall be submitted by the Operator to the Board of Health for review so as to meet all of the requirements of OSHA regulations, to include, but not limited to 29 Code of Federal Regulation 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 Establishment at all times and shall be made available to the Board of Health upon request.

3.3.010(15) 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 Board of Health.

3.3.010(16) 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 Board of Health, may cause the contamination of Instruments, Equipment, a Procedure Surface or Workstation.

3.3.010(17) BODY ART ESTABLISHMENT – PERMIT – BOARD OF HEALTH AUTHORIZED TO ISSUE

If an applicant for a Body Art Establishment Permit demonstrates to the Board of Health compliance with section 3.12.010 *et seq* of this Body Art Regulation, the Board of Health is hereby authorized to issue a Body Art Establishment Permit pursuant to the provisions of this Body Art Regulation.

3.3.010(18) BODY ART ESTABLISHMENT - PERMIT - POSTING REQUIREMENT

The Operator of a Body Art Establishment shall post in an area of the Body Art Establishment accessible to the Board of Health and to Clients the original of the current Body Art Establishment Permit issued by the Board of Health.

3.3.010(19) MOBILE OR TEMPORARY BODY ART ESTABLISHMENT

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

3.3.010(20) 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 other otherwise compromise or could reasonably be expected to compromise the Sterility of the Body Art Establishment with body substances or pathogenic organisms.

- 3.3.011 INSTRUMENTS AND EQUIPMENT**
- 3.3.011(1) EQUIPMENT AND FURNISHINGS**
- 3.3.011(2) SANITIZING AND STERILIZATION UNITS**
- 3.3.011(3) WASTE RECEPTACLES**
- 3.3.011(4) LINENS**
- 3.3.011(5) ROTARY PENS**
- 3.3.011(6) INK – DYE – PIGMENT**
- 3.3.011(7) INSERTED OBJECTS – JEWELRY**
- 3.3.011(8) SINGLE USE EQUIPMENT AND INSTRUMENTS**
- 3.3.011(9) PROHIBITED INSTRUMENTS AND MATERIALS**

3.3.011(1) 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.

3.3.011(2) SANITIZING AND STERILIZATION UNITS

(a) Every Body Art Establishment shall have at a 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 Autoclave or other Sterilization Unit sold for medical Sterilization purposes under approval of the U.S. Food and Drug Administration; and,

(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.

3.3.011(3) 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.

3.3.011(4) 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.

3.3.011(5) 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.

3.3.011(6) 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 Board of Health or the FDA.

3.3.011(7) 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 Gage 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 worn Jewelry or Jewelry brought into the Body Art Establishment by the Client or another is prohibited.

(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 and Material Standards F-136-98, platinum or other materials considered by the Board of Health to be equally biocompatible and capable of adequate cleaning and Sterilization shall be inserted into a Client.

3.3.011(8) SINGLE USE EQUIPMENT AND INSTRUMENTS

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

3.3.011(9) 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 sterilant 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.

3.3.012 GENERAL REQUIREMENTS

3.3.012(1) ANIMALS

3.3.012(2) SMOKING, EATING AND DRINKING – PROHIBITED

3.3.012(3) DISEASE TRANSMISSION

3.3.012(4) EXPOSURE INCIDENT REPORT

3.3.012(5) RECORD MAINTENANCE

3.3.012(6) ESTABLISHMENT MAINTENANCE

3.3.012(7) TOILET ROOM AND PLUMBING MAINTENANCE

3.3.012(8) EQUIPMENT AND INSTRUMENT MAINTENANCE

3.3.012(9) CONTAMINATED INSTRUMENTS

- 3.3.012(10) INSTRUMENT STORAGE**
- 3.3.012(11) USE OF CHEMICALS AND CLEANSERS**
- 3.3.012(12) LABELING**
- 3.3.012(13) LINEN STORAGE AND CLEANING**
- 3.3.012(14) CLEANING AND TESTING OF ULTRASONIC CLEANING UNITS AND STERILIZATION UNITS**
- 3.3.012(15) WASTE HAULING**

3.3.012(1) 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.

3.3.012(2) 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.

3.3.012(3) 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.

3.3.012(4) 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.

(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.

3.3.012(5) RECORD MAINTENANCE

(a) Every Operator shall have and retain at the Body Art Establishment for inspection by the Board of Health 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 Exposure Control Plan for the Body Art Establishment submitted to the Board of Health;
- (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 operating at the Body Art Establishment; Body Art Practitioner registration number, Hepatitis B vaccination status or declination notification;
 - (4) Client records [two 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]; and
 - (8) Body Art Regulation – one copy of the most current version of this Body Art Regulation and any State regulations concerning the practice of Body Art.
- (b) Every Operator shall have and retain at the Body Art Establishment for inspection by the Board of Health all Exposure Incident Reports permanently. The disposal or destruction of these reports is prohibited.

3.3.012(6) 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.

3.3.012(7) TOILET ROOM AND PLUMBING MAINTENANCE

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

3.3.012(8) 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.

3.3.012(9) 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.

(i) Liquid Sterilants shall not be used for the Sterilization of any reusable Instrument.

3.3.012(10) 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 Board of Health.

3.3.012(11) 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.

3.3.012(12) 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.

3.3.012(13) 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 so as to prevent hazard in a manner approved by the Board of Health.

(b) Any other protective clothing, garment or cloth items worn during or used during in 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.

3.3.012(14) CLEANING AND TESTING OF ULTRASONIC CLEANING UNITS AND STERILATION 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 Board of Health of any failure of the Autoclave or other Sterilization Unit to eradicate all living organisms, including spores.

3.3.012(15) 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 and regulation. The frequency of disposal shall be determined by the Board of Health.

3.3.013 CONDUCT OF BODY ART

3.3.013(1) WORKSTATION SANITIZING

3.3.013(2) HANDWASHING AND USE OF GLOVES

3.3.012(3) INSTRUMENT AND EQUIPMENT PREPARATION

3.3.013(4) USE OF WORKSTATION

3.3.013(5) USE OF INSTRUMENTS, SUPPLIES AND SHARPS

3.3.013(6) WASTE DISPOSAL

3.2.013(7) MULTIPLE BODY ART ACTIVITIES

3.3.013(1) 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.

3.3.013(2) 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 a 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, 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.
- (e) The use of single-use examination gloves does not preclude or substitute for the above hand washing requirement.

3.3.013(3) 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.
- (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.

3.3.013(4) 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, a 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.

3.3.013(5) 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 this Body Art Regulation.
- (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 product 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.
- (g) 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.

3.3.013(6) 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 this Body Art Regulation.

3.3.013(7) 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.

- 3.3.014 PROHIBITED ACTIVITIES**
- 3.3.014(1) PIERCING GUN – USE**
- 3.3.014(2) PARTICULAR BODY PIERCING**
- 3.3.014(3) TONGUE SPLITTING**
- 3.3.014(4) BRAIDING**
- 3.3.014(5) THREE DIMENSIONAL / IMPLANTATION**
- 3.3.014(6) TOOTH FILING**
- 3.3.014(7) CARTILAGE NOTCHING**
- 3.3.014(8) AMPUTATION**
- 3.3.014(9) GENITAL MODIFICATION**
- 3.3.014(10) INTRODUCTION OF SALINE OR OTHER LIQUIDS**

3.3.014(1) PIERCING GUN

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

3.3.014(2) PARTICULAR BODY PIERCINGS - PROHIBITION/RESTRICTION

The following Body Piercings are hereby prohibited.

- (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 the nipple.
- (10) Piercing of the anus.
- (11) Piercing of an eyelid, whether the 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” piercing of the penis - meaning piercing through the shaft of the penis, or “trans-penis” piercing in any area from the corona glandes 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.”

3.3.014(3) 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.

3.3.014(4) BRAIDING

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

3.3.014(5) 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.

3.3.014(6) 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.

3.3.014(7) 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.

3.3.014(8) 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.

3.3.014(9) 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.

3.3.014(10) 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 purposed of causing a modification of the body is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

SECTION 4 HEALTH CLUBS

3.4.001 The Board of Health requires a permit for the operation of Health Clubs in the Town of Billerica: Said permit may be issued after all information and fees deemed necessary are submitted to the Board of Health. Permits shall expire on December 31st of each year and may be renewed annually. The permit holder must apply for a permit renewal at least thirty (30) days prior to the expiration of said permit.

3.4.002 The Health Club facility must be maintained in a clean and sanitary condition at all times as deemed necessary by the Board of Health.

3.4.003 Health Club facilities shall be subject to inspections at least once every six (6) months. Any violations cited must be corrected within the specified time period on the violation notice.

SECTION 5 HOTELS AND MOTELS

3.5.001 All Hotels and Motels operating in the Town of Billerica which require a license pursuant to Massachusetts General Laws Chapter 140 Section 32A – 32S shall comply with all applicable laws, rules and regulations. All permits shall expire on December 31st of each year. The permit holder must apply for a permit renewal at least thirty (30) days prior to the expiration of said permit.

3.5.002 INSPECTIONS: The Board of Health shall conduct inspections at least once every six (6) months of all Hotels and Motels licensed by said Board.

3.5.003 All Hotels and Motels are required to comply and maintain compliance with Chapter 2 and Chapter 10 of the Massachusetts State Sanitary Code. Noncompliance shall be deemed a violation of local regulations.

3.5.004 All Hotels and Motels shall maintain the premises, guest rooms, public areas, and areas not open to the public in a clean and sanitary condition at all times. The Board of Health may require that certain actions occur to maintain a clean and sanitary facility as it deems necessary to protect the public health.

SECTION 6 PRACTICE OF BODYWORK THERAPY

3.6.001 PURPOSE: The purpose of these regulations shall be construed broadly to apply licensure requirements upon both the practitioners and establishments offering the various bodywork services defined herein, which if not particularly regulated could result in serious ramifications to the health, safety and wellbeing of the public. These regulations also specify the requirements for the renewal of such licensure, as well as grounds for the suspension, revocation, and denial of such licensure.

3.6.002 DEFINITIONS

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

(1) ADMINISTRATIVE REVOCATION shall mean an administrative action taken when a licensee fails to timely renew licensure and ignores all other available options. A licensee whose license has been administratively revoked is officially unlicensed and cannot lawfully continue to practice as a bodywork therapist or operate a bodywork establishment in the Town of Billerica. Licenses administratively revoked may be reinstated upon meeting the conditions contained in these regulations.

(2) AGENT shall mean any person, including an officer of the Billerica Police Department, who has received delegation of authority from the Board of Health to perform inspections and/or other functions under these regulations.

(3) APPLICANT shall mean an individual or entity seeking licensure that has submitted an official application and paid the application fee in effect.

(4) APPLICATION shall mean the application form approved by the Board of Health, together with the following: passport type photograph, official transcript from educational institution(s), verification of successful completion of the applicable national certification exam, two original letters of professional recommendation, and certification/licensure from other state or municipal jurisdictions.

(5) BODYWORK THERAPY shall refer to the practice of Reflexology and/or Asian Bodywork (including, but not limited to: Accupressure, AMMA Therapy®, Chi Nei Tsang, Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Jin Shin Do®, Bodymind Acupressure™, Macrobiotic Shiatsu, Shiatsu Amma Therapy, Traditional Thai Massage, Tuina, Zen Shiatsu, and Ayurvedic medicine) and all other practices using touch, words, or directed movement to deepen awareness of patterns of movement in the body, or the affectation of the human energy system or acupoints or Qi meridians of the human body. Bodywork, for the purposes of this Regulation, shall not include any massage therapy practices governed by the licensure requirements of MGL c. 13, sections 98 and 99 or MGL c. 112, sections 227-236, 269CMR 2.00 and 269CMR 6.00 which are exclusively regulated by the Commonwealth of Massachusetts.

(6) BODYWORK THERAPIST shall refer to any individual engaged, employed or otherwise permitted to provide Bodywork Therapy services, within the definition above, at any Establishment.

(7) CLIENT shall mean a person with whom the bodywork therapist has an agreement to provide bodywork therapy services.

(8) CERTIFICATION shall mean successful completion of the most current requirements of the American Organization for Bodywork Therapies of Asia (AOBTA®), National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), American Reflexology Certification Board, or other nationally recognized credentialing organization or its successor organization or equivalent organizations and credentials and an examination of knowledge in the field. Such certification credentials must be approved by the Board of Health.

(9) BOARD shall mean Board of Health for the Town of Billerica

(10) ESTABLISHMENT shall mean any location, or portion thereof, which advertises and/or provides bodywork therapy services on the premises. Any health care facility licensed by an agency of the Commonwealth of Massachusetts, or the office of any health care professional licensed by the Commonwealth of Massachusetts wherein bodywork therapy services are not advertised or provided except on an occasional out-call basis is not an establishment for the purposes of these regulations. Any location within a licensed health care facility or health care professional's office which is dedicated to and maintained for the use of a therapist who performs occasional therapy services to the patients of the facility is a bodywork establishment for the purposes of licensure under these regulations and the portions of the facility or office wherein bodywork therapy services are provided must be in compliance with the standards established by these regulations.

(11) EXPIRED FILE shall mean an incomplete, inactive or denied file deemed expired by operation of this Regulation or administrative action by the Board.

(12) LICENSEE shall mean a person holding a license to practice any form of bodywork or to operate a bodywork establishment in the Town of Billerica. Where applicable, such designation shall apply to partnerships and/or corporations.

(13) PERSON shall mean any individual, firm, corporation, partnership, organization, or body politic.

(14) RETIRED LICENSE shall mean a license that has not been renewed for more than twelve (12) consecutive months.

(15) PROFESSIONAL BODYWORK THERAPY PRACTITIONER/THERAPIST shall mean a bodywork therapist licensed by the Board who has completed a minimum 500 hour course of study in bodywork therapy and is currently credentialed as a professional practitioner by either a national certifying agency or professional organization.

3.6.003 EXEMPTIONS

3.6.003 (1) Any physician, chiropractor, osteopath, nurse, nurse practitioner, physical therapist, athletic trainer, massage therapist or acupuncturist operating within the scope of his/her Commonwealth of Massachusetts license or registration and not representing him/herself as a bodywork therapist shall be exempt from these regulations.

3.6.003 (2) Hospitals, long-term care facilities, and home health agencies licensed or certified under the laws of the Commonwealth of Massachusetts shall be exempt from these regulations.

3.6.004 THERAPIST LICENSURE REQUIREMENTS

3.6.004 (1) It shall be a violation of these regulations for any person who is not licensed in the manner described herein to represent being a licensed Bodywork Therapist or to hold him/herself out to the public

as being licensed by using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.

3.6.004 (2) To practice Bodywork Therapy in the Town of Billerica, a person must possess a lawfully issued license from the Board. The process for obtaining a license is as follows:

- (a) An application packet shall be obtained from the Board.
- (b) The applicant shall answer every question truthfully and completely and supply all information requested in the application form. The applicant shall submit the application along with all required documentation and fees to the Board. All required documents must be received by the Board within sixty (60) days from initial submittal for an application to be deemed active. False statements shall constitute grounds for revocation or denial of an issued license.
- (c) Applications shall be accepted throughout the year. The Board shall act on license applications within thirty (30) days of receipt of all required documents as described in these regulations.
- (d) The applicant shall submit a certified copy of his/her birth certificate or its equivalent to establish that the applicant is, at the time of application, at least eighteen (18) years of age.
- (e) The applicant shall attach to his/her application a signed passport- type photograph taken within the preceding 12 months.
- (f) The applicant shall provide satisfactory evidence of certification by an appropriate licensing authority, or its equivalent or successor organization, which shall be submitted to the Board.
- (g) The applicant shall submit proof of a skin test for tuberculosis within the preceding 12 months. A new skin test for tuberculosis shall be required for license renewals if deemed necessary by the Board.
- (h) The applicant shall also submit evidence of good moral character; such evidence shall consist of two (2) original letters from health care professionals attesting to the applicant's personal character and professional ethics.
- (i) The applicant shall complete a release of Criminal Offenders Record Information (CORI) to enable the Board to review his/her criminal history. In order to be licensed, the applicant must have not been convicted, in any jurisdiction, of a sex crime or a crime involving moral turpitude for a period of ten (10) years immediately prior to the date of application.
- (j) The applicant shall disclose the circumstances surrounding any of the following:
 - 1. Any conviction for any sex-related offense, including prostitution or sexual misconduct, rape as well as other felony against persons occurring within the past ten (10) years.
 - 2. Revocation or denial of a license to practice bodywork issued by any state or municipality.
 - 3. Loss or restriction of licensure or certification by any jurisdiction for any reason. In no case, shall the Board of Health issue a license to any person whose license to practice Bodywork Therapy has been revoked or suspended by any other jurisdiction.
- (k) The applicant for a bodywork license shall submit a non-refundable application fee in accordance with the most recent fee schedule adopted by the Board.
- (l) The application shall be sworn to, signed by the applicant and notarized by a Notary Public of the Commonwealth of Massachusetts.
- (m) All documents submitted for licensure purposes shall become the property of the Board and will not be returned to the applicant.

3.6.005 ESTABLISHMENT LICENSURE REQUIREMENTS

3.6.005 (1) In addition to ensuring that all Bodywork Therapists employed in the establishment have obtained a license to practice bodywork in the Town of Billerica, as described in Section 3.6.004 above, a

proprietor wishing to operate a bodywork Establishment must complete the additional licensure requirements below.

3.6.005 (2) Unless all Bodywork Therapists employed, engaged or otherwise permitted to provide bodywork services within an Establishment have individual licenses from the Town of Billerica, it shall be a violation of these regulations for any person operating a bodywork Establishment to present or assert his/her Establishment as a licensed Bodywork Therapy Establishment or to hold his/her Establishment out to the public as being licensed by using a title on signs, mail boxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.

3.6.005 (3) To operate a Bodywork Therapy Establishment in the Town of Billerica, a person must complete the following application process:

- (a) An application packet shall be obtained from the Board.
- (b) The applicant shall answer every question truthfully and completely and supply all information requested in the application form. The applicant shall submit the application along with all required documentation and fees to the Board. All required documents must be received by the Board within sixty (60) days for an active application. False statements shall constitute grounds for revocation or denial of an issued license.
- (c) Applications shall be accepted throughout the year. The Board shall act on license applications within thirty (30) days of receipt of all required documents as described in these regulations.
- (d) The applicant shall include with the application copies of the licenses of all duly licensed Bodywork Therapists performing bodywork at the Establishment. An Establishment shall have at least one (1) duly licensed Bodywork Therapist employed at all times in order to maintain licensure.
- (e) The owner is responsible to ascertain that all persons performing Bodywork Therapy in his/her Establishment are duly licensed by the Board. Violation of this requirement may result in suspension or revocation of the Establishment license.
- (f) There shall be a person in charge in the Establishment at all times, who shall be so designated by the owner. The person in charge shall be a manager or a Bodywork Therapist. This person shall be authorized to sign Board inspection forms and shall be responsible for the operation of the Establishment in the absence of the owner.
- (g) Bodywork Therapists shall maintain a sufficient level of personal cleanliness and wear clothing that is clean, as determined by the Board. No person in an Establishment shall be unclothed. No person working in an Establishment shall wear attire that exposes any portion of the pubic hair, cleft of the buttocks, or genitals.
- (h) The applicant for an Establishment license shall submit a nonrefundable application fee in accordance with the most recent fee schedule adopted by the Board.
- (i) The application shall be sworn to and signed by the applicant and notarized by a Notary Public of the Commonwealth of Massachusetts

(j) All documents submitted for licensure purposes become the property of the Board and will not be returned.

**3.6.006 PRACTICE STANDARDS FOR BODYWORK ESTABLISHMENT,
PERSONNEL, EQUIPMENT, LINENS AND SUPPLIES**

3.6.006 (1) ESTABLISHMENT STANDARDS

(a) All Establishments initially licensed after the effective date of these regulations must contain a waiting area for clients within the establishment.

(b) All Establishments must provide a plan for review and approval prior to the construction of a Bodywork Therapy Establishment and or issuance of a license. Plans submitted for review must meet the specifications set forth in this section.

(c) The Establishment shall maintain properly installed smoke detector(s) and fire extinguisher.

(d) Bodywork Therapy may be conducted only in rooms, which are adequately lighted, ventilated, properly heated and constructed so that they can be kept clean. Floors, walls, ceilings and windows must be kept free of dust, soil, and other unclean substances.

(e) A plan describing sanitation measures must be provided to the Board for any Bodywork Therapy which entails disrobing and/or draping, use of oils or lotions and/or use of a massage-type of table.

(f) Bodywork Therapy rooms shall have at least 65 square feet of open floor space.

(g) Smoking is prohibited anywhere on the premises of an Establishment.

(h) Every Establishment shall have accessible restroom facilities, including at least one toilet with toilet tissue provided, a hand sink with soap, disposable towels, single use linens or air dryers provided.

(i) Every Bodywork Therapy room shall have hand-washing facilities for the therapist use. Said facilities shall provide an adequate supply of hot water at a temperature that complies with 105 CMR410.000 (State Sanitary Code).

(j) Soap, disposable towels, single use linens or air dryers and adequate waste receptacles shall be provided at all times.

(k) Toilet and hand washing facilities shall meet the requirements of the state plumbing code and shall be maintained in good repair, well-lighted and adequately ventilated, kept in a clean and sanitary condition and free of vermin.

(l) Every Establishment shall provide for safe and unobstructed passage in the public and private areas of the premises.

(m) Facilities shall be provided for the storage and removal of garbage, waste and refuse.

(n) Any flammable or hazardous materials in the Establishment shall be stored in a safe manner in accordance with local and state regulations and Massachusetts General Laws.

3.6.006 (2) PERSONNEL

- (a) All persons who perform Bodywork Therapy at an Establishment must hold a current license from the Billerica Board of Health.
- (b) All Therapists conducting Bodywork at an Establishment shall be deemed to be Employees of the establishment and shall not be considered independent contractors.
- (c) A Bodywork Therapist may only perform bodywork at the licensed Establishment(s) listed on his/her therapist license. Bodywork Therapists may provide services off-site for single events, such as health fairs and demonstrations, provided they notify the Board at least two (2) days prior to the event.
- (d) Therapist and Establishment licenses are not transferable.
- (e) The use of aliases is prohibited. If a Bodywork Therapist or Establishment owner wishes to use a name other than that which appears on a license, both names must be displayed in all advertising and representations.
- (f) All Bodywork Therapists shall wash hands thoroughly with soap and hot water immediately before and after performing a Bodywork Therapy session.

3.6.006 (3) EQUIPMENT

- (a) All equipment and supplies used in the performance of Bodywork Therapy shall be maintained in a safe and clean manner. All tables and other cleanable surfaces that come into contact with clients shall be cleaned by the regular application of a cleanser and sanitized with an EPA registered sanitizer. In particular, the Bodywork Therapy table shall be cleaned at least one time a day or whenever oils, lotions or other substances visibly accumulate on client contact surfaces.
- (b) Each client shall receive a separate, clean covering for use on the bodywork therapy table, such as sheets or towels.
- (c) All re-usable sheets, towels and other cloth materials used in the conduct of Bodywork Therapy that come in contact with a client shall be laundered after each use.
- (d) Each Establishment shall maintain a sufficient supply of clean linens for the purpose of draping each client while the client is being massaged. "Drapes" shall include towels, gowns, sheets or similar non-transparent coverings.
- (e) If any latex-containing products are used, a sign shall be conspicuously posted so stating and all clients shall be advised that latex-containing products are used.

3.6.007 SEXUAL ACTIVITY PROHIBITED

3.6.007 (1) Sexual activity by any person or persons in any establishment is prohibited.

3.6.007 (2) As used in these regulations, "sexual activity" means any direct or indirect physical contact or communication by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation and include: sexual intercourse, fellatio, cunnilingus,

masturbation (or “hand release”), or anal intercourse. For the purpose of these regulations, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. As used, herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation has occurred.

3.6.008 GENERAL REQUIREMENTS

3.6.008 (1) All licensees shall notify the Board of a change of name and/or address within thirty (30) days.

3.6.008 (2) All licenses are non-transferable.

3.6.008 (3) All licenses shall be displayed in a location conspicuous to clients entering the establishment. A therapist may cover his home address on the license however the name must be conspicuous.

3.6.008 (4) A change in Bodyworks Therapy Establishment ownership shall require application for and receipt of a new Bodyworks Therapy Establishment license. A change in Bodyworks Therapy Establishment ownership shall occur on the date that there is a transfer of a controlling interest in a Bodyworks Therapy Establishment. When a change in ownership occurs, the Bodyworks Therapy Establishment license shall expire. The prospective new owner(s) must apply for a new license 30 days prior to transfer of ownership.

3.6.008 (5) Establishment licenses may not be transferred to a different location. The Board must approve in writing any change of location, and a new license must be obtained from the Board.

3.6.008 (6) Hours of operation for any establishment shall be limited to 7:00 AM to 9:00 PM, inclusive.

3.6.008 (7) All licensees shall notify the Board of any criminal or federal, state or local administrative agency complaint brought against them within seven (7) days. Failure to do so may result in administrative suspension or revocation of licensure by the Board upon confirmation of such complaint.

3.6.008 (8) Any false statements or information presented to the Board in any application shall be grounds for revocation of license.

3.6.008 (9) No alcoholic beverage may be served in any Establishment.

3.6.008 (10) Any Establishment serving food shall obtain a food service establishment permit under the provisions of Chapter X of the Massachusetts Sanitary Code (105 CMR 590.000)

3.6.008 (11) No person shall treat or be treated while infected with a disease in a communicable form that can be transmitted from person-to-person.

3.6.008 (12) No room, area or section of an Establishment shall be used as a bedroom or for sleeping or domicile purposes.

3.6.009 LICENSE RENEWALS

3.6.009 (1) Establishment licenses expire on December 31st of each year.

3.6.009 (2) The owner shall submit a renewal application along with a fee in accordance with the most recent fee schedule adopted by the Board at least thirty (30) days prior to the expiration of the Establishment license.

3.6.009 (3) Any applications received after the Establishment license expiration date shall be subject to a late fee equivalent to the original fee amount.

3.6.009 (4) An Establishment's license shall be administratively revoked if the renewal application and fee are not received by December 31st of each year. Once a license has been administratively revoked and then reinstated upon payment of the required fees, the Establishment must meet all of the requirements of these rules and regulations.

3.6.009 (5) Administrative revoked licenses may be reinstated upon meeting all renewal requirements.

3.6.009 (6) Bodywork Therapist licenses expire on December 31st of each year.

3.6.009 (7) The Bodywork Therapist shall submit a renewal application along with a fee in accordance with the most recent fee schedule adopted by the Board at least thirty (30) days prior to the expiration of the therapist license. The renewal requires that all Bodywork Therapists licensed after the effective date of these regulations shall maintain certification with the relevant national organization as outlined in Section 3.6.002 (14).

3.6.009 (8) Any applications received after the Bodywork Therapist license expiration date shall be subject to a late fee equivalent to the original fee amount.

3.6.009 (9) A Bodywork Therapist's license shall be administratively revoked if the renewal application and fee are not received by December 31st of each year.

3.6.009 (10) Administratively revoked licenses may be reinstated upon meeting all renewal requirements.

3.6.009 (11) A Bodywork Therapist license shall be considered retired if not renewed for a period of twelve consecutive months. A Retired license may not be renewed; a new license application must be submitted to the Board.

3.6.009 (12) A license replacement fee for either an Establishment or a Bodywork Therapist may be obtained for a fee in accordance with the most recent fee schedule adopted by the Board.

3.6.010 ADVERTISING

3.6.010 (1) Establishment owners and Bodywork Therapists shall be mindful of professional ethics when placing advertisements. Advertising in periodicals and newspapers that appeal to prurient interests or advertising in a manner that uses sexual or provocative language and/or pictures to promote business may be construed as a breach of proper standards of Bodywork Therapy.

3.6.011 INSPECTIONS

3.6.011 (1) Establishments and applicants for licenses are subject to periodic inspections without prior notice by the Board or its authorized agent(s) during all business hours. Authorized agents shall include Billerica Police Officers, and other individuals appointed, in writing, by the Board.

3.6.011 (2) The purpose of inspections is to verify compliance with these Regulations.

3.6.011 (3) An Establishment license shall be subject to revocation by the Board whenever a facility principal or employee of an Establishment denies or obstructs an authorized agent's efforts to enter an Establishment or any portion hereof for inspection. In addition, the license of any Bodywork Therapist who denies or obstructs an authorized agent's access to an Establishment or directs another person to do so, shall also be subject to revocation.

3.6.011 (4) An Establishment licensee may be subject to disciplinary action, pursuant to Section 3.6.012, below, when an inspection establishes that an Establishment does not meet the standards and requirements set by these regulations or when the inspection reveals that the license of any employee engaged in Bodywork Therapy activities at the premises has been suspended or revoked.

3.6.011 (5) Re-inspection shall be required when an Establishment does not pass an initial inspection. The applicant shall submit a written request for re-inspection, which shall include:

(a) A correction plan to be submitted to the Board within five (5) business days of the initial inspection.

(b) If more than one re-inspection is required, a special inspection fee shall be assessed in accordance with the most recent fee schedule adopted by the Board.

3.6.012 DISCIPLINARY ACTIONS, ORDERS AND HEARINGS

3.6.012 (1) Upon a finding by the Board that a licensee has violated any provision of these Regulations, the Board may, in its discretion, impose any of the following sanctions, separately or in any combination, which it deems appropriate to the offense:

(a) Suspension of licensee's right to practice or maintain an Establishment for a fixed period of time, contemplating reentry into practice under the license previously issued.

(b) Administrative revocation for failing to renew licensure in a timely manner. Licenses that have been administratively revoked may be reinstated upon meeting the renewal requirements of these Regulations.

(c) Revocation for cause, which terminates the license. The Board, in its discretion, may allow reinstatement of a revoked license upon such conditions and after such a period of time as it deems appropriate. Any person whose license has been revoked may not apply for licensure for at least one (1) year from the date of revocation, unless otherwise stated in the Board's revocation order.

(d) Any person who violates any provision of these Regulations shall be subject to penalties in accordance with Chapter 1, Section 19 of the Billerica Board of Health Rules and Regulations.

3.6.012 (2) ORDERS

(a) All orders issued by the Board shall be in writing.

(b) Orders shall be served on the licensee or licensee's agent as follows:

1. By sending a copy of the order by certified mail, return receipt requested.
2. Personally, by any person authorized to serve civil process, or
3. By posting copy in a conspicuous place on or about the premises of the Establishment.

(c) Failure to comply with any order issued by the Board shall be deemed just cause for the immediate revocation of a license.

3.6.012 (3) HEARINGS

(a) The person to whom any order or notice has been issued relative to any violation of these Regulations may request a hearing before the Board. Such request shall be in writing and shall be filed with the Board within five (5) business days of receipt of the order or notice. Upon receipt of such request, the Board or Agent shall inform the petitioner in writing of the time and place of said hearing, which shall be convened within a reasonable time.

(b) At the hearing, the petitioner shall be given an opportunity to be heard to challenge the inspection findings, and/or to show why the order should be modified or rescinded, or why the license should not be suspended or revoked. Any oral testimony provided at a hearing shall be recorded electronically and shall become part of the licensee's file.

(c) After the hearing, the Board shall make a final decision based upon the complete hearing record and shall inform the petitioner in writing of its decision. If the Board sustains or modifies an order, it's decision shall comport with the time period established in the original order or in the modification.

(d) Every notice, order, decision or other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the Board's file.

(e) Any person aggrieved by the final decision of the Board may seek relief in a court of competent jurisdiction pursuant to applicable provisions of Massachusetts General Law.

SECTION 7 THROUGH 23

Reserved for future regulations, amendments, etc.

SECTION 24 PENALTIES

3.24.001 Any person holding a permit for an establishment or individual permit may be subject to penalties and enforcement action in accordance with Chapter 1, Section 19 of the Billerica Board of Health Rules and Regulations.

SECTION 25 SEVERABILITY

3.25.001 If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations which shall remain in full force and effect and to this end the provisions of these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised by-laws of the Town of Billerica, these rules and regulations will be binding upon all parties concerned.

SECTION 26 EFFECTIVE DATE

This regulation shall take effect immediately upon adoption by the Board of Health. Then Board of Health reviewed the amendments to this Regulation on June 2, 2022.

Then Board of Health held a Public Hearing on the amendments of this Regulation on July 11, 2022.
The Board of Health adopted the amendments to this Regulation on July 11, 2022 by a 5-0 vote.