Whitman Board of Health

Body Art Regulations

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1. Purpose and Scope

The purpose of these regulations is to set forth the licensure procedures and requirements for Body Art Practitioners and the licensure procedures and requirements for the maintenance and operation of Body Art establishments.

2. Definitions

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

Aftercare means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

Applicant means any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

Antiseptic means and agent that destroys disease-causing microorganisms on human skin or mucosa.

Autoclave means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

Autoclaving means a process which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of thirty minutes at 20 pounds of pressure (PSI) at a temperature of 270 degrees Fahrenheit.

Bloodborne Pathogens Standard means OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Bloodborne Pathogens.

Board of Health or Board means the Board of Health that has jurisdiction in the community in which a body art establishment is located.

Body Art means the practice of physical body adornment by permitted establishments and practitioners using the technique of tattooing. This definition does not include practices that are

considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which are prohibited.

Body Art Establishment or establishment means a location, place, or business that has been granted a permit by the Board where the practices of body art are performed, whether or not for profit.

Body Art Practitioner or practitioner means a specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

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.

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.

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.

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.

Client means a member of the public who requests a body art procedure at a body art establishment.

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 waste 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 this Body Art Regulation.

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.

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.

Department, means the Whitman Board of Health, or its authorized representatives.

Disinfectant, means a product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).

Disinfection, means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

Dermis, means the deeper, thicker portion on the skin lying beneath the epidermis, to include the subcutaneous layer.

Ear Piercing, means 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.

Epidermis, means the outer layer of skin which is composed of four recognizable layers of cells usually a total of about 0.1 mm thick.

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

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

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.

Exposure Incident Report, shall mean a written report detaining the circumstances of an Exposure.

Hand Sink, means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.

Hot Water, means water that attains and maintains a temperature 110° and 130° F.

Instruments Used for Body Art, means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

Invasive, means entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin or mucosa.

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

License, means a document issued by the Department pursuant to this Body Art Ordinance authorizing a person to conduct allowed Body Art procedures in the Town of Whitman.

Minor, means any person under the age of eighteen (18) years.

Mobile Body Art Establishment, means 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.

Operator, means any person who individually, or jointly or severally with others, owns, or controls an establishment, but is not a body art practitioner.

Parenteral, means the invasion of the skin barrier or mucous membranes.

Permit, means Board approval in writing to either (1) operate a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within community or political subdivision comprising the Board's jurisdiction.

Person, means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

Physician, means an individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to M.G.L.c. 112 section 2.

Procedure surface, means any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.

Prohibited Forms of Body Art, shall refer to those forms of Body Art prohibited under this Body Art Regulations.

Sanitize, means the process of reducing the number of microorganisms on a surface to a safe level using a Liquid Chemical Germicide. The application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

Scarification, refers to a form of Body Art that requires the use of an instrument to cut a design into the skin to produce a scar

Sharps, means any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

Sharps Container, means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

Single Use Items, means products or items that are intended for one-time, one-person use and are disposed of after use of each client, 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.

Sterilize, means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial spores.

Tattoo, means the indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

Tattooing, means the act or process of creating a tattoo.

Tattoo Gun, means an electric, vertically vibrating tool used for tattooing.

Tattoo Inks/Pigments/Dyes or Inks/Pigments/Dyes, means the metal or salt-based substance injected into the subcutaneous portion of the skin in the act or process of creating a tattoo.

Temporary Body Art Establishment, means the same as Mobile Body Art Establishment.

Three Dimensional "3D" Body Art or Beading or Implantation, means the form of Body Art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. This term does not include Body Piercing.

Ultrasonic Cleaning Unit, means a unit approved by the Board, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.

Universal Precautions, means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report) (MMR), 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 MMWR, July 12, 1991, Vol.40, No RR-8. 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.

Workstation, means an area within a Body Art Facility designated for use in the conducting of Body Art activities.

3. The Practice of Body Art- Body art Practitioner License Required

A. No person shall conduct any form of Body Art activity unless such person holds a valid Body Art Practitioner License issued by the Whitman Board of Health pursuant to this Body Art Regulation.

B. A practitioner shall be a minimum of 18 years of age.

C. A practitioner permit shall be valid from the date of issuance and shall automatically expire on December 31st of the calendar year.

D. Application for a practitioner permit shall include:

- Name;
- Date of birth;
- Residence address;
- Mailing address;
- Phone number;
- Place of employment as a practitioner; and
- Training and/or experience as set out in (E) below.

4. Practitioner & Apprentice Training and Experience **(Apprentice added – August 7, 2018)**

A. In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.

B. Training for all practitioners and apprentices shall be approved by the Board and at a minimum, shall include the following:

a. For a Body Art Practitioner or Apprentice License or 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).

b. For a Body Art Practitioner License or Apprentice that enables one to perform Tattooing, 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).

c. Current bloodborne pathogen training program, which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques.

d. First Aid and cardiopulmonary resuscitation (CPR). **Renewed every 2 years and follows AHA guidelines.**

e. Upon conclusion of courses as describe above, an examination based on the information covered 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.

f. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these regulations.

g. Body Art Practitioners and Apprentices shall hold general liability insurance of $100,000 to perform body art procedures. Evidence of insurance shall be made available to the Board upon submittal of both initial and renewal applications for all Body Art practitioners.

C. Criminal history report:

a. Criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner, apprentice or applicant unfit to practice body art as evidenced by the criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts.

5. 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.

6. 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 and to clients the original of the current Body Art Practitioner License of the Body Art Practitioner.

7. Standards of Practice

A. Practitioners are required to comply with the following minimum health standards:

a. A practitioner shall perform all tattooing in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention.

b. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.

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

d. No practitioner shall use an ear piercing system on any part of the client's body.

e. Health history and client informed consent prior to performing a body art procedure on a client, the practitioner shall:

B. Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure.

a. history of diabetes;

b. history of hemophilia (bleeding);

c. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc;

d. history of allergies or adverse reactions to pigments, dyes, or other sensitivities;

e. history of epilepsy, seizures, fainting, or narcolepsy;

f. use of medications such a anticoagulants, which thin the blood and/or interfere with blood clotting; and

g. any other conditions such as hepatitis or HIV

C. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions a required.

a. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

b. In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with sec. (F) before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The

use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program

c. The skin of a practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

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

e. Preparation and care of a client's skin area must comply with the following:

- Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.

- Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following the procedure, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

- In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.

f. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded properly.

g. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:

- on the proper cleaning of the area which received the body art.

- to consult a health care provider for;

  - unexpected redness, tenderness or swelling at the site of the body art procedure;

- any rash;
- unexpected drainage at or from the site of the body art procedure; or
- a fever within 24 hours of the body art procedure;

- the address, and phone number of the establishment. A copy shall be provided to the client. A model set of after care instructions shall be made available by the department.

h. Contaminated waste shall be stored, treated and disposed in Accordance with 105 CMR 480.000: Storage and Disposal of infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

8. Restriction of Certain Body Art Activities

A. No Body Art Practitioner shall;

a. Tattoo a Minor Client;
b. Brand a Minor Client;
c. Scar or perform Scarification upon a Minor Client;
d. Pierce the genitalia of a Minor Client
e. Piercing in minor clients (ages 14 – 17) is limited to belly button and facial procedures allowed by these regulations only
f. Perform or engage in any of the activities prohibited under the Board's Body Art Regulations.

9. 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.

10. Multiple Body Art Activities

A. 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:

a. Creating two or more tattoos on different areas of the body of a single Client;
b. The use of more than one needle or scalpel during the conduct of Body Art upon a single Client; or
c. Creating one Tattoo and the use of one needle or scalpel on a single Client.

11. Prohibited Activities

- Piercing gun – Use
- Cosmetic tattooing – micro – pigmentation, etc.
- Particular body piercing prohibition/Restriction
- Tongue splitting
- Braiding
- Branding
- Scarification
- Three dimensional/implantation
- Tooth filling
- Cartilage notching
- Amputation
- Genital modification
- Introduction of saline or other liquids
- No tattooing or piercing shall be performed in mobile establishments or in private homes.

12. Piercing Gun

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

13. Cosmetic Tattooing – Micro-pigmentation, etc.

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

14. Particular Body Piercings – Prohibition/Restriction

A. The following Body Piercings are hereby prohibited.

a. Piercing of the Uvula.
b. Piercing of the tracheal area.
c. Piercing of the neck.
d. Piercing of the ankle.
e. Piercing between the ribs or vertebrae.
f. Piercing of the web area of the hand or foot.
g. Piercing of the lingual frenum (tongue web).
h. Piercing of the clitoris.
i. Any form of chest or deep muscle piercing – excluding piercing the nipple.
j. Piercing of the anus.
k. Piercing of an eyelid, whether the top or bottom.

l. The form of body piercing known as "pocketing".
m. Piercing of the gums.
n. Piercing or skewering of a testicle.
o. 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 glandis to the public bone.
p. So-called "deep" piercing of the scrotum – meaning piercing through the scrotum, or "trans-scrotal" piercing.
q. So-called "deep" piercing of the vagina – to include, but not limited to-so-called "triangles".
r. 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.
s. Braiding - The braiding of the skin is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.
t. 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 of object is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.
u. Scarification – refers to a form of Body Art that requires the use of an instrument to cut a design into the skin to produce a scar.
v. 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.
w. 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.
x. Cartilage modification – The cutting, notching, sculpting or other modification of cartilage is hereby prohibited unless performed by a doctor licensed by the Commonwealth of Massachusetts.
y. Amputation – The intentional amputation of any part of the body is hereby prohibited unless performed by a doctor licensed by the Commonwealth of Massachusetts.
z. Genital modification – modification of the genitalia by means of sub-incision, bifurcation, castration, male or female mollification or other surgical means is hereby prohibited unless performed by a doctor licensed by the Commonwealth of Massachusetts.
aa. Introduction of saline or other liquids – The introduction of saline solution or other liquid or semi-liquid substance into the body of another for the purpose of causing a modification of the body is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

15. Injury Reports

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

a. The name of the affected client;
b. The name and location of the body art establishment involved;

c. The nature of the injury, infection complication or disease;
d. The name and address of the affected client's health care provider, if any;
e. Any other information considered relevant to the situation.

16. Apprenticeship Program

A. Purpose and scope:

The purpose of this regulation is to set forth the licensure procedures and requirements of body art apprentices and licensure procedures and requirements.

B. Definitions:

Apprentice means a person who is learning a trade, art, or occupation under a skilled worker for a prescribed period of time.

C. Application for Body Art Apprentice Permit

a. No person shall practice body art without first obtaining an apprentice practitioner permit from the Board. The Board shall set a reasonable fee for such permits

b. An apprentice shall be a minimum of 18 years of age.

c. An apprentice permit shall be valid from the date of issuance

d. And shall automatically expire on December 31st of issued year unless revoked by the Board. No license will be pro-rated.
e. Application for an apprentice permit shall include.

1. Name
2. Residence address
3. Date of birth
4. Mailing address
5. Phone number
6. Name of the establishment where apprentice will be training
7. Name of body art practitioner the apprentice will be training under.

D. Apprentice Training and Experience

a. Training for all apprentices shall be approved by the Board and at a minimum, shall include the following:

1. For a body art apprentice practitioner license enabling one to be trained to perform Piercing, the completion of a complete course I 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 apprentice practitioner license enabling one to tattoo, 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 shall deem appropriate and acceptable may be substituted for the course in anatomy & physiology otherwise required of an applicant for body art apprentice practitioner license that enables one to perform tattooing, but not body piercing.

3. Current bloodborne pathogen training program, which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques.

4. First Aid and Cardiopulmonary resuscitation (CPR). **Renewed every 2 years and follows AHA guidelines.**

5. Upon conclusion of courses as described above, an examination based on the information covered by the entity administering the course, with documentation of the results for each attendee provided to him or her. The body art apprentice practitioner license applicant shall provide the results of such examination to the Board.

6. An apprentice practitioner permit shall be conditioned upon continued compliance with all applicable provisions of these model regulations.

7. ~~Body art practitioners shall hold general liability insurance of $100,000 to perform body art procedures. Evidence of insurance shall be made available to the Board upon submittal of both initial and renewal applications for all body art practitioners.~~ **Amended August 7, 2018 – Already included in Section 4 (G)**

E. Standards of Practice

Body art apprentices are required to comply with the same standards of practice as a licensed practitioner, as stated in "Town of Whitman Body Art Regulations".

F. 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.

G. Grounds for Denial of Apprentice Permit, Revocation of Apprentice Permit, or Refusal to Renew Apprentice Permit.

Body art apprentices may be subject to permit revocation, permit refusal or renewal under the same conditions, as stated in "Town of Whitman Body Art Regulation".

H. Grounds for Suspension of Permit

The Board may summarily suspend a permit pending in final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that and apprentice is an immediate and serious threat to the publics health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

I. Procedure for Hearings

The procedure for hearing is the same, as stated in "Town of Whitman Body Art Regulation".

J. Unauthorized Practice of Body Art Apprentice

The Board shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official any incidents of unauthorized practice of body art, performed by an apprentice.

17. Customers /Clients

A. Application and Consent Form for Body Art Activity Requirement

Every client shall complete an application and consent form approved by the Board prior to having any body art activity performed upon or to their body.

B. Application and Consent Form for Body Art Activity - Content

a. Every application and consent form, required by the "Town of Whitman Body Art Regulation" shall contain a minimum of the following:

b. General information regarding body art, including, at a minimum, the following statements:

- Tattoos should be considered permanent: and
- The removal of tattoos and scars would require surgery or other medical procedure that may result in scarring or additional scarring of the skin;

c. 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;

d. Client information, including:

- Name;
- Age and valid identification;
- 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 of 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;
- The type of the body art activity to be performed.

e. 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;

f. The address and phone number of the Board and instructions for the client, or in the case of a minor client – the minor client and his/her parent of legal guardian, to contact the Board with any questions or concerns regarding safety, sanitization or sterilization procedures;

g. The name of the body art practitioner who is to conduct the body art upon the client or minor client and that practitioner's permit number;

h. 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;

i. Signature of client;

j. 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;

k. The signature of body art practitioner;

l. The date(s) of all signature(s); and,

m. 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.

C. 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:

- Diabetes
- History of hemophilia (bleeding)
- History of skin disease skin lesions or skin sensitivities to soap, disinfectants, etc.:
- History of allergies or adverse reactions to pigments, dyes or other skin sensitivities;
- History of epilepsy, seizures, fainting or narcolepsy;
- The taking of medications such as aspirin or other anticoagulants, which thin the blood and or interfere with blood clotting.
- 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.

D. Impairment by Drugs or alcohol

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

E. Aftercare Instructions

All clients shall obtain and read and follow the Board approved aftercare instructions appropriate for the form of body art conducted upon such person.

F. Aftercare Instructions – Minimum Content

a. Aftercare instructions shall be approved by the Board and shall include, at a minimum the following:

- Responsibilities and proper care following the procedure;
- Restrictions, if any, upon the client;
- Signs and symptoms of infection; and,
- Instructions to contact a physician if possible signs of infection occur.

G. Age Requirements for Certain Body Art Activities

a. No minor client shall receive a tattoo.
b. No minor client shall be branded.
c. No minor client shall be scarred.
d. No minor client shall have his or her genitalia pierced.
e. Piercing in minor clients (ages 14 – 17) is limited to belly button and facial procedures allowed by these regulations only

H. Rash, Lesion or Visible Signs of Infection

a. 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.

18. Body Art Establishment Permit – Application - Registration

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 and shall pay a fee voted on by the Board to the Town of Whitman. A body art establishment permit shall be valid for no more than one year. The Board may renew a body art establishment permit under this body art regulation and each applicant for such renewal shall pay to the Town of Whitman a renewal. All Body Art Establishment Permits shall expire on December 31st of the year of issuance.

A. The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:

a. Name, address, and telephone number of:
    - the body art establishment
    - the operator of the establishment;
    - the body art practitioner(s)working at the establishments;

b. The manufacturer, model number, model year, and
    - Serial number, where applicable, of the autoclave used in the establishment.

c. A signed and dated acknowledgement that the
    - Applicant has received, read and understood the requirements of the Board's body art regulations;

d. A drawing of the floor plan of the proposed
    - Establishment to scale for a plan review by the Board, as part of the permit application process;

e. Plan approval shall be granted or denied within 60 Calendar days after the submission of said plans. If the Board of Health does not approve said plans within such time, the plans shall be deemed to have been approved. Approval shall be denied only if such plans establish that the proposed tattoo establishment will violate provisions of the Whitman Board of Health Regulations for Body Art Establishments or other applicable laws, ordinances or regulations; and,

f. Plan review fee to be voted on by the Board.

g. Such additional information as the Board may reasonably require.

B. The Board shall set a reasonable fee for such permit.

C. A permit for a body art establishment shall <u>not</u> be transferable from one place or person to another.

D. Application for a tattoo establishment permit under this section that operation and maintenance of a tattoo establishment under these regulations shall constitute consent to inspection of said premises at any time by an agent of the Board of Health of the Town of Whitman and said refusal of inspection upon notice shall constitute grounds for immediate revocation of the permit.

19. <u>Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit</u>

A. The Board may deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew;

a. Any actions which would indicate that the health or safety of the public would be at risk.

b. Fraud, deceit or misrepresentation in obtaining a permit, or its renewal;

c. Criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;

d. Any present or past violation of the Board's regulations governing the practice of body art;

e. Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;

f. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;

g. Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;

h. Continuing to practice while his /her permit is lapsed, suspended, or revoked; and

i. Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations.

j. Other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;

B. The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit, if the applicant establishment or practitioner fails to comply after said seven (7) days.

C. Applicants denied a permit may reapply at any time after denial.

D. Refusal of an applicant to allow an inspection of the premises by an authorized agent of the Board of Health upon any complaint or for any other reason, including consent to an inspection under Section 9 shall be deemed immediate grounds for revocation of the permit issued under these rules.

20. Grounds for Suspension of Permit

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and /or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

21. Procedure for Hearings

A. Suspension of a Permit

a. After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty – one (21) calendar days after the effective date of the suspension.
b. Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit be the Board.
c. In cases of suspension of a permit, the hearing officer shall determine 6.hether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the

time of the suspension an immediate and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

B. Denial, Revocation, or Refusal to Renew a Permit

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

22. Unauthorized Practice of Body Art

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

23. Severability

If any provision contained in the regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

24. Operation of Body Art Establishments

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

A. Physical Plant

a. Walls, floors, ceilings, and procedure surfaces shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.

b. Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.

c. The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.

d. Each body art station shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a divider or partition at a minimum

e. The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled

f. A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist – or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.

g. There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser.

h. At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leakproof, rodent-resistant containers and shall be removed from the premises at least weekly.

i. At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes I accordance with all applicable Federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.

j. All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.

k. The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.

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

m. No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.

n. Eating or drinking is prohibited in the area where body art is performed, with the exception of fluids being offered to a client during or after a body art procedure.

A. Requirements for Single Use Items Including Inks, Dyes and Pigments

a. Singles use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.

b. All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposable.

c. All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.

d. Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic caps. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

B. Sanitation and Sterilization Measures and Procedures

a. All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.

b. After being cleaned, all non-disposable Instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.

c. The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturers recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.

d. Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.

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

f. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

g. If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

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

i. Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

C. Posting Requirements

The following shall be prominently displayed:

a. A Disclosure Statement, a model of which shall be available from the Board. A Disclosure shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.

b. The name, address and phone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint.

c. An Emergency Plan, including:

- a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
- a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
- a sign at or adjacent to the telephone indicating the correct emergency telephone numbers.

d. An occupancy and use permit as issued by the local building official.

e. A current establishment permit.

f. Each practitioner's permit.

D. Establishment Recordkeeping

A. The establishment shall maintain the following records in a secure place for a minimum of three (3) years, and such records shall be made available to the Board upon request:

a. Establishment information, which shall include:
   1. establishment name;
   2. hours of operation;
   3. owner's name and address'
   4. a complete description of all body art procedures performed;
   5. an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement.
   6. A Material Safety Data Sheet, when available, for each ink and dye used by the establishment; and
   7. A copy of these regulations.

b. Employee information, which shall include:
   1. full names and exact duties;
   2. date of birth;
   3. home address;
   4. home/work phone numbers; and

c. Client Information, which shall include:
   1. name;
   2. date of birth;
   3. address of the client;
   4. date of the procedure;
   5. name of the practitioner who performed the procedure(s);11
   6. description of procedure(s)performed and the location on the body;
   7. a signed consent form as specified by 6(D)(2); and
   8. if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.

d. Client information shall be kept confidential at all times.

B. The establishment shall require that all body art practitioners have either completed, or were offered and declined, in writing, the hepatitis B vaccination series. Records documenting compliance with this requirement shall be provided to the Board upon request.

Eric F. Joubert, Chair

Barbara J. White, Vice-chair

Mary Kelly, Clerk

Adopted: **November 7, 2017**

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Filed with MA DEP: _____

Filed with Whitman Clerk's office: _____