

**TOWN OF MASHPEE  
BOARD OF HEALTH**

**BODY ART REGULATION**

SECTION

124.01:	Authority
124.02:	Purpose and Scope
124.03:	Definitions
124.04:	Operation of Body Art Establishments
124.05:	Exemptions
124.06:	Public Notification Requirements
124.07:	Client Records
124.08:	Injury Reports
124.09:	Records Retention
124.10:	Preparation and Care of the Body Art Area
124.11:	Sanitation and Sterilization Procedures
124.12:	Requirements for Single Use Items
124.13:	Permit Requirements
124.14:	Complaints
124.15:	Grounds for Denial of Permit
124.16:	Grounds for Suspension of Permit
124.17:	Grounds for Revocation of Permit, or Refusal to Renew Permit
124.18:	Procedure for Hearing
124.19:	Unauthorized Practice of Body Art
124.20	Severability
124.21	Effectiveness

**124.01 Authority**

105 CMR 124.000 is adopted under the authority of M.G.L. c.111 §6.

**124.02 Purpose and Scope**

The Purpose of these regulations are to provide a method of infection control in Body Art Establishments located within the Town of Mashpee and to protect the general public from transmittal of blood borne pathogens under the authority conferred by M.G.L. c111 § 31.

## PART III - Body Art Regulation

### 124.03 Definitions

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. These instructions will include information about when to seek medical treatment, if necessary.

Bloodborne Pathogens Standard means OSHA Regulations 29 CFR 1910.1030.

Board means the Board of Health, which has jurisdiction in the community in which a body art establishment is located including the Board or Officer having like powers and duties in towns where there is no Board of Health.

Body art means the practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and 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, which shall not be performed in a body art establishment.

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

Body Art Practitioner or practitioner means a specified person who has been granted a permit by the Board to perform body art in a body art establishment that has been granted a valid permit by the Board.

Body piercing means puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. This definition includes piercing of the outer perimeter of the ear, but does not include piercing of the earlobe with pre-sterilized single-use stud-and-clasp ear-piercing systems.

Branding means inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

Client means any person who has requested a body art procedure at a body art establishment.

Contaminated Waste means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other

### PART III - Body Art Regulation

potentially infectious materials, as defined in 29 Code of Federal regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens", or as defined as "infectious or physically dangerous medical or biological waste" in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

Cosmetic tattooing see "Tattooing"

Department means the Department of Public Health or its authorized representatives.

Disinfectant means a product registered as a disinfectant by the U.S. Environmental Protection Agency.

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

Ear piercing means the puncturing of the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer instructions.

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.

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 of 110°-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 body art procedures.

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

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

### PART III - Body Art Regulation

Operator means any person who alone, jointly or severally with others owns, has care, charge, or control of any body art establishment as agent or lessee of the owner or as an independent contractor, but is not a body art practitioner.

Permit means approval in writing by the Board either (1) to operate a body art establishment or (2) to operate as a body art practitioner within a body art establishment. Approval is granted in accordance with 105 CMR 124.000 and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the Board's jurisdiction.

Person means an individual, any form or 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 registered by the Board of Registration in Medicine pursuant to M.G.L. c. 112 § 2 as a qualified physician.

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.

Sanitization procedure means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which the Department has approved.

Sanitary means clean and free of agents of infection or disease.

Sanitized means effective disinfection treatment by a process using intermediate disinfectants for enough time to reduce the bacteria count including pathogens to a safe level on semi-critical or non-critical equipment.

Scarification means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.

Sharps means any objects (sterile or contaminated) that may purposefully 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.

### PART III - Body Art Regulation

Single use means products or items that are intended for one-time, one-person use and are disposed of after use on 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 endospores.

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 any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

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 and Hepatitis B Virus to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report) (MMWR), 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 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.

#### 124.04 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:

- 1) All walls, floors, ceilings, and procedure surfaces within the body art establishment 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 chair/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- 2) All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any

### **PART III - Body Art Regulation**

- 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.
- 3) Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.
  - 4) There shall be a minimum of 45 square feet of floor space for each practitioner in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains, or partitions, at a minimum shall separate multiple body art stations.
  - 5) 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.
  - 6) 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 shall be readily accessible within the body art establishment. One hand - sink shall serve no more than three practitioners.
  - 7) There shall be a minimum of one lavatory, excluding any service sinks, and one working toilet in a body art establishment.
  - 8) At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
  - 9) All instruments and supplies shall be stored in clean, dry, and covered containers.
  - 10) Practitioners who use ear-piercing systems must conform to the manufacturer's directions for use and applicable U.S. Food and Drug Administration requirements.
  - 11) 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.
  - 12) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g. Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and non-procedural areas.

#### **(B) Information to be kept on file:**

The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Board:

- 1) Employee information
  - a) full names and exact duties;
  - b) date of birth;
  - c) gender;

### PART III - Body Art Regulation

- d) home address;
  - e) home/work phone numbers;
  - f) identification photos of all body art practitioners;
  - g) establishment information;
  - h) establishment name;
  - i) hours of operation
  - j) owner's name and address;
- 2) A complete description of all body art procedures performed.
  - 3) 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 orders shall satisfy this requirement.
  - 4) A copy of these regulations.
- (C) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current permit issued by the Board.
- (D) Each body art practitioner must be a minimum of 18 years of age.
- (E) Each practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention.
- (F) Smoking, eating, or drinking or prohibited in the establishment.
- (G) Operators/practitioners shall refuse service to any person who, in the opinion of the operator/practitioner, is under the influence of alcohol or drugs.
- (H) The practitioner shall maintain a high degree of personal cleanliness, conform to 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 towel. This shall be done as often as necessary to remove contaminants.
- (I) In performing body art procedures, the practitioner shall wear disposable single-use gloves. Gloves must be changed if they become 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 before the next set of gloves is donned. 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.
- (J) If, while performing a body art procedure, the practitioner's glove is pierced, torn, or otherwise contaminated, the procedure delineated in section (I) shall be repeated

### **PART III - Body Art Regulation**

immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see I above) before a fresh pair of gloves is applied. 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.

- (K) Contaminated waste as defined in this code that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the International Biohazard Symbol. It must then be disposed in accordance with 105 CMR 480.00: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII, or, at a minimum, in compliance with 29 CFR part 1910.1030, "Occupational Exposure to Bloodborne Pathogens". Used sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on site shall not exceed 30 days, as specified in 29 CFR Part 1910.1030.
- (L) No practitioner shall perform any body art procedure upon a client under the age of 18 years without the presence, consent, and proper identification of a parent, legal custodial parent, or legal guardian. Nothing in this section is intended to require a practitioner to perform any body art procedure on a person under 18 years of age regardless of parental or guardian consent.
- (M) Any skin or mucosa surface to receive body art procedure shall be free of rash or any visible infection.
- (N) The skin of the practitioner shall be free of rash or infection. No person or operator 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.
- (O) Proof shall be provided to the Board of Health that all practitioners have completed the hepatitis B vaccination series prior to issuance of the permit.

#### **124.05 Exemptions**

- (A) Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.



### **PART III - Body Art Regulation**

- (B) Individuals who pierce only the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear piercing system are exempt from these regulations.

#### **124.06 Public Notification Requirements**

- (A) All establishments shall prominently display, and give to each client, a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of body art procedures.
- (B) Verbal and written instructions, provided by the Department, for the aftercare of the body art procedure site shall be provided to each client by the operator/practitioner upon completion of the procedure.
  - 1) The written instructions shall advise the client
    - a) on the proper cleansing of the area which received the body art;
    - b) to consult a health care provider for:
      - 1. unexpected redness, tenderness or swelling at the site of the body art procedure
      - 2. rash
      - 3. drainage at or from the site of the body art procedure
      - 4. fever within 24 hours of the body art procedure
  - 2) address, and phone number of the establishment
  - 3) these documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records.
- (C) The facility permit holder shall also post in public view the name, address and phone number of the local Board of Health that has jurisdiction over this program and the procedure for filing a complaint.

#### **124.07 Client Records**

- (A) Prior to performing any body art procedure, the body art practitioner shall request from the client, verbally and in writing, the following health history information:
  - 1) history of diabetes;
  - 2) history of hemophilia (bleeding);
  - 3) history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
  - 4) history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
  - 5) history of epilepsy, seizures, fainting, or narcolepsy;
  - 6) use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting.

### **PART III - Body Art Regulation**

- (B) The practitioner shall have the client sign a Release Form confirming that the above information was obtained or that the practitioner attempted to obtain it. The client should be asked to disclose any other information that would aid the practitioner in evaluating the client's suitability for body art procedures.
- (C) Each operator shall keep records of all body art procedures administered, including date, time, identification and location of the body art procedure(s) performed, and practitioner's name. All client records shall be confidential and be retained for a minimum of three (3) years and made available to the Board upon notification.
- (D) Nothing in this section shall be construed to require the practitioner to perform a body art procedure upon a client.

#### **124.08 Injury Reports**

A written report of any injury, infection complication or disease to a client as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator or practitioner to the Board which issued the permit and to the Department with a copy to the complainant or 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 effected client's health care provider, if any;
- (E) any other information considered relevant to the situation.

#### **124.09 Records Retention**

The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, the date of the procedure, the name of the practitioner who performed the procedure(s), type and location of procedure performed, and signature of client, and, if the client is a minor, proof of parental or guardian presence and consent. Such records shall be retained for a minimum of three (3) years and shall be available to the Board upon request. The Board and the body art establishment shall keep such records confidential.

#### **124.10 Preparation and Care of the Body Art Area**

- (A) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be 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

### **PART III - Body Art Regulation**

be discarded after each use, and reusable holders shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

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

#### **124.11 Sanitation and Sterilization Procedures**

- (A) All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, a solution of household chlorine bleach as recommended by the CDC or by following the manufacturer's instructions 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 peel-packs and subsequently sterilized. All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed six (6) months.
- (C) All cleaned, non-disposable instruments used for body art shall be sterilized in a steam autoclave or dry-heat sterilizer. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Board.
- (D) Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located away from workstations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- (E) Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer 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 sterilizer'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 Department upon request.
- (F) All reusable needles used in body art procedures shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instruments used in body art

### **PART III - Body Art Regulation**

procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

- (G) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of body art procedure. 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.
- (H) All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
- (I) The mixing of approved inks, dyes, or pigments or their dilution with potable water is acceptable. 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 cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

#### **124.12 Requirements for Single Use Items**

- (A) Single-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 and in accordance with 105 CMR 480.000.
- (B) All products applied to the skin, including body art stencils, shall be single use and disposable. Acetate stencils may be re-used if approved by the Board. Sanitization procedures in accordance with 105 CMR 124.11 shall be performed between uses.
- (C) Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used only once and then discarded.

#### **124.13 Permit Requirements**

Body art establishments shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the Board, as part of the permit application process.

##### **(A) Establishment Permit:**

- 1) No person, firm, partnership, joint venture, association, business trust, corporation or organized group of persons may operate a body art establishment except with a body art establishment permit issued by the Board.

### PART III - Body Art Regulation

- 2) Any person operating a body art establishment shall obtain an annual permit from the Board. The annual fee is \$100.00 per body art establishment.
- 3) A permit for a body art establishment shall not be transferable from one place or person to another.
- 4) A current body art establishment permit shall be posted in a prominent and conspicuous area where clients may readily observe it.
- 5) The holder of a body art establishment permit must only hire practitioners who have complied with the practitioner permit requirements of this regulation.

#### (B) Body Art Practitioner Permit:

- 1) No person shall practice body art procedures without first obtaining an operator permit from the Board. The annual fee is \$50.00 per practitioner.
- 2) The practitioner permit shall be valid from the date of issuance and shall expire on December 31<sup>st</sup> of that year unless revoked sooner by the Board.

#### (C) Application for a practitioner permit shall include:

- 1) name;
- 2) date of birth;
- 3) gender;
- 4) residence address;
- 5) mailing address;
- 6) telephone number;
- 7) place(s) of employment as a practitioner;
- 8) training and/or experience;
- 9) proof of attendance at a bloodborne pathogen training program (or equivalent), given or approved by the Board.
  - (a) The applicant shall provide documentation of attendance and completion of courses approved by the Board, or completion of an examination, on the following subjects:
    - (i) anatomy
    - (ii) skin diseases, disorders and conditions (including diabetes)
    - (iii) infectious disease control, including waste disposal, handwashing, techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques.

### **PART III - Body Art Regulation**

- (b) Examples of courses approved by the Board include courses such a "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.
- (D) No permit shall be issued unless, following reasonable investigation by the Board, the body art establishment or practitioner has demonstrated compliance with the provisions of this section and all other provisions of these regulations.
- (E) All permits shall be conditioned upon continued compliance with the provisions of this section as well as all applicable provisions of these regulations.
- (F) All permits shall be posted in a prominent and conspicuous area where clients may readily observe them.

#### **124.14 Complaints**

- (A) The Board shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Board's regulations.
- (B) If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.
- (C) If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complaint of its action in this matter.
- (D) Investigation of complaints may lead to enforcement actions including revocation, suspension, or refusal to renew a permit, by the Board.

#### **124.15 Grounds for Denial of Permit**

- (A) The Board may deny a permit on any of the following grounds:
  - 1) Failure to conform to the requirements of the Board's regulations;
  - 2) Any actions or omissions which would indicate that the health or safety of the public would be at risk should a permit be approved;
  - 3) Any previous violation of the Board's regulations;

### **PART III - Body Art Regulation**

- 4) Any attempt to practice or obtain a permit through fraud, deceit, or misrepresentation.
- 5) Criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission or sufficient facts;
- 6) Other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
- 7) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental inability;
- 8) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
- 9) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit; and,
- 10) 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.

(B) Applicants denied a permit may reapply any time after denial.

#### **124.16 Grounds for Suspension of Permit**

The Board may summarily suspend a permit pending a final hearing on the merits on the question or 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.

#### **124.17 Grounds for Revocation of Permit, or Refusal to Renew Permit**

- (A) The Board may 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:
- 1) fraud or misrepresentation in obtaining a permit, or its renewal;
  - 2) criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner 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;
  - 3) violation of any rule or regulation of the Board governing the practice of body art;
  - 4) other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
  - 5) practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;

### PART III - Body Art Regulation

- 6) being habitually drunk or being dependent on, or a habitual user or narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
  - 7) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
  - 8) continuing to practice while his/her permit is lapsed, suspended, or revoked;
  - 9) having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations, and;
  - 10) refusing to practice body art on a person because of such person's race, creed, color, gender, age, disability, national origin, or sexual orientation.
- (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.

#### 124.18 Procedure for Hearing

##### (A) Suspension of Permit

- 1) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.
- 2) Such 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.
- 3) In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety, or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

##### (B) Denial, Revocation, or Refusal to Renew a Permit

- 1) A permit may be denied, revoked, or refused renewal only after a hearing conducted by the Board;
- 2) 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.,



### PART III - **Body Art Regulation**

- 3) 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.

#### 124.19 Unauthorized Practice of Body Art

The Board shall refer to the appropriate District Attorney, the Attorney General, or other appropriate law enforcement agency any incidents of unauthorized practice of body art that come to its attention.

#### 124.20 Severability

If any rule or provision contained herein is found to be unconstitutional or invalid by a Court of competent jurisdiction, the validity of the remaining rules and provisions will not be so affected.

#### 124.21 Effectiveness

This regulation was adopted by the Board of Health on December 14, 2000 and shall become effective upon publication in the local newspaper.

Per Order Of,  
Mashpee Board of Health

Steven R. Ball, Chairman  
John T. Doherty, Co-Chairman  
L. Glenn Santos, Clerk

***Adopted: December 14, 2000***