

## **Amherst Regulations for Body Art Establishments**

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## 1. Purpose and Scope

The Amherst Board of Health, acting under the authority conferred by M.G.L.c.111, §31 & c. 111, S 122, enacts the following regulations governing the practice of body art.

## 2. 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.

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

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

**Autoclaving** means a process that results in a 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 Amherst Board of Health.

**Body Art** means the practice of physical body adornment by permitted establishments and practitioners using, the following techniques: body piercing, and tattooing. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine.

**Body Art Establishment** or establishment means a location, place or business 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 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** means puncturing or penetrating the skin of a client with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear piercing.

**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.

**Biohazard / Sterilization Rooms** means having a completely separate and enclosed biohazard room for processing used implements, jewelry and supplies.

**Cleaning Area** means 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** 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 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 in 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 Amherst Public Health Department 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.

**Ear Lobe 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.

**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.

**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°-130°F.

**Infectious Waste** means the same as contaminated waste.

**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 appropriate jewelry that is made of Surgical Implant grade Stainless Steel CRNMO 316 LVM ASTM F-138, solid 14 karat or higher white or yellow gold, Niobium (Nb), Surgical Implant grade Titanium Ti6A4V ELI, ASTM F-136, solid platinum, or a dense low porosity plastic such as Tygon or PTFE. Threaded jewelry for initial piercings must have internal tapping (no threads on posts) starting from 16 gauge. Jewelry must be free of nicks, scratches, burrs, and polishing compounds. Ring ends must be rounded.

**Light Colored** means a light reflectance value of 70 percent or greater.

**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.

**Minor or minor client** shall mean any person of less than eighteen (18) years of age as of that person's last birth date.

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

**Permit** means Board approval in writing to either (1) to 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.

**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 § 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 that may require sanitizing.

**Sanitization Procedure** means a process of reducing the numbers of micro-organisms 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.

**Sanitize** means effective disinfectant 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 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 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.

**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 and Hepatitis B Virus (HBV) 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 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.

**Variance See Variance Provisions (Section 18)**

**3. Exemptions**

- (A) Physicians licensed in accordance with M.G. L. c. 112 S2 who perform body art procedures as part of patient treatment are exempt from these regulations.
- (B) Individuals who pierce only the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing systems are exempt from these regulations.

**4. Restrictions**

- (A) Only the following body piercing procedures may be performed in the Town of Amherst: eyebrow, ear, nipple, nose (nostril and septum only), navel, lip and tongue.  
All other piercings are not allowed.
- (B) No tattooing shall be performed on a person under the age of 18. No piercing shall be performed on a person under the age of 14. Those under 18 must be accompanied by a properly identified parent, legal custodial parent, or legal guardian. Valid ID must be presented for both the minor client and the parent or guardian. The parent or guardian must sign a consent form. Piercing of nipples, tongue, or lips is not allowed on persons under 18.
- (C) The only body art procedures allowed to be performed by body art practitioners in the Town of Amherst are Tattooing and Piercing as described in (A). All other body art procedures are not allowed.
- (D) No body art procedures shall be performed upon an animal.
- (E) The following establishment types are hereby prohibited: mobile body art establishments and temporary body art establishments.

**5. 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  
Every workstation, Instrument Storage Area, Toilet Room, and Cleaning Area shall be constructed and maintained as follows so as to provide a durable, smooth, nonabsorbent and washable surface:

- (1) Floors – constructed of commercially rated continuous sheet vinyl, smooth sealed cement, ceramic tile with sealed grout, or other similar materials approved by the Department and shall be maintained in good repair free of any holes or cracks.
- (2) Walls – covered with a semi-gloss or gloss enamel paint, or constructed of fiberglass reinforced panel, ceramic tile with sealed grout or other similar materials approved by the Department and shall be maintained in good repair free of any holes or cracks.
- (3) Ceiling – covered with semi-gloss or gloss enamel paint, or approved commercially rated panels or tiles and maintained in good repair free of any holes, cracks or falling matter.
- (4) All such floors, walls and ceilings shall be light-colored. For purposes of this regulation, “light-colored” shall mean a light reflectance value of 70 percent or greater.
- (5) The piercing room shall be separated from all other functions of the establishment with solid partitions or walls that fully extend from floor to ceilings.
- (6) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
- (7) 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.
- (8) 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.
- (9) 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 body art station shall have a hand sink. Hand washing must never take place at the instrument sink.
- (10) 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.
- (11) 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, leak-proof, rodent-resistant containers and shall be removed from the premises at least weekly.

- (12) Every cleaning area shall have an instrument sink used exclusively for the cleaning of instruments. Every instrument sink shall be of adequate size and equipped with hot and cold water under pressure so as to permit the cleaning of instruments.
  - (13) 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 in 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.
  - (14) Practitioners who use ear-piercing systems must conform to the manufacturers directions for use and applicable U.S. Food and Drug Administration requirements.
  - (15) 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.
  - (16) Reusable cloth items shall be mechanically washed with a detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
  - (17) There must be clear delineation between clean and dirty areas. Biohazard areas must be labeled as such. The ultrasonic unit and the sink used for rinsing contaminated tools must be a minimum of 36 inches away from the sterilizer to reduce the risk of contaminating sterilized items.
  - (18) 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.
  - (19) 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 nonprocedural areas.
  - (20) Smoking, 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.
  - (21) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected receptacles.
- (B) Requirements for Single Use Items Including Inks, Dyes and Pigments

- (1) 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 pursuant to 105 CMR 480.000.
- (2) 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.
- (3) Hollow bore needles or needles with a cannula shall not be reused.
- (4) 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.
- (5) 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.

(C) Sanitation and Sterilization Measures and Procedures

- (1) 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.
- (2) 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.
- (3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Department and any replacement of such equipment must be reported to the Department. Autoclaves shall be located away from workstations or areas frequented by the public.
- (4) Every Autoclave or Sterilization Unit shall be tested with a commercial biological monitoring (spore) system test in a manner and frequency consistent with the manufacturer's instructions, but no less than once every week, to monitor the efficacy of the eradication of all living organisms, including spores, by the Autoclave or other sterilization unit.

Copies of these tests must be submitted monthly to the Amherst Health Department. The permit shall not be issued or renewed until the Board receives documentation of the autoclave's ability to destroy spores.

These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.

- (5) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of the body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- (6) Sterile instruments may not be used if the package has been breached or after the expiration date without first re-packaging and re-sterilizing.
- (7) 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.

(D) Posting Requirements

The following shall be prominently displayed:

- (1) A Disclosure Statement, a model of which shall be available from the Department. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
- (2) The name, address and phone number of the Amherst Board of Health that has jurisdiction and the procedure for filing a complaint.
- (3) An Emergency Plan, including:
  - (a) A plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency.
  - (b) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation.
  - (c) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- (4) An occupancy and use permit as issued by the local building official.
- (5) A current establishment permit.
- (6) Each practitioner's permit.

(E) Establishment Recordkeeping

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:

- (1) Establishment information, which shall include:

- (a) Establishment name.
  - (b) Hours of operation.
  - (c) Owner's name and address.
  - (d) A complete description of all body art procedures performed.
  - (e) 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.
  - (f) A Material Safety Data Sheet, when available, for each ink and dye used by the establishment.
  - (g) A copy of these regulations.
- (2) Employee information, which shall include:
- (a) Full names and exact duties
  - (b) Date of birth
  - (c) Home address
  - (d) Home/work phone number
- (3) Client information, which shall include the following, must be stored in a locked cabinet:
- (a) Name
  - (b) Date of birth
  - (c) Address of the client
  - (d) Date of the procedure
  - (e) Name of the practitioner who performed the procedure(s).
  - (f) Description of procedure(s) performed and the location on the body.
  - (g) A signed consent form as specified by 6(D)(2).
  - (h) If the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copies of the photographic identification of the client and parent or guardian and the consent form.
  - (i) Client information shall be kept confidential at all times.
- (F) 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.

## **6. Standards of Practice**

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

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

- (C) Practitioners who use ear-piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- (D) Health History and Client Informed Consent. Prior to performing a body art procedure on a client, the practitioner shall:
  - (1) Inform the client, verbally and in writing, that the following health conditions may increase health risks associated with receiving a body art procedure:
    - (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 as anticoagulants, which thin the blood and/or interfere with blood clotting.
    - (g) Any other conditions such as hepatitis or HIV.
  - (2) 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 as required by section 6(K).
- (F) 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 his/her own 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.
- (G) 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 minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with section (E) 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.
- (H) The skin of the practitioner shall be free of skin rash or skin infection. No practitioner affected with a respiratory infection shall work in any area of a body art establishment in any capacity in which there is likelihood that that person could

contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

- (H) 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.
- (I) Preparation and care of a client's skin area must comply with the following:
  - (1) Any skin or mucosa surface to receive a body art procedure shall be free of rash, lesions or any visible infection.
  - (2) 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 shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
  - (3) 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.
- (J) 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.
- (K) 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 of the following:

- (1) On the proper cleansing of the area which received the body art.
- (2) To consult a health care provider for:
  - (a) Unexpected redness, tenderness or swelling at the site of the body art procedure.
  - (b) Any rash.
  - (c) Unexpected drainage at or from the site of the body art procedure.
  - (d) A fever within 24 hours of the body art procedure.

A copy of instructions shall be provided to the client. A model set of aftercare instructions shall be made available by the Department.

- (L) 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.
- (M) Practitioners may only use jewelry that is made of Surgical Implant grade Stainless Steel CRNMO 316 LVM ASTM F-138, solid 14 karat or higher white or yellow gold, Niobium (Nb), Surgical Implant grade Titanium Ti6A4V ELI, ASTM F-136, solid platinum, or a dense low porosity plastic such as Tygon or PTFE for initial piercings. Threaded jewelry for initial piercings must have internal tapping (no threads on posts) starting from 16 gauge. Jewelry must be free of nicks, scratches, burrs, and polishing compounds. Ring ends must be rounded.

## **7. Injury Reports**

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:

- (1) The name of the affected client.
- (2) The name and location of the body art establishment involved.
- (3) The nature of the injury, infection complication or disease.
- (4) The name and address of the affected client's health care provider, if any.
- (5) Any other information considered relevant to the situation.

## **8. Complaints**

- (A) The Board shall investigate complaints received about an establishment, 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, 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 complainant of its action in this matter.

## **9. Application for Body Art Establishment Permit**

- (A) No person may operate a body art establishment except with a valid permit from the Board.
- (B) Applications for a permit shall be made on forms prescribed by and available from

the Board. An applicant shall submit all information required by the form and accompanying instructions. The term “application” as used herein shall include the original and renewal applications.

- (C) An establishment permit shall be valid from the date of issuance and shall automatically expire in one (1) year from the date of issuance unless revoked sooner by the Board.
- (D) The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
  - (1) Name, address, and telephone number of:
    - (a) The body art establishment.
    - (b) The operator of the establishment, and
    - (c) The body art practitioner(s) working at the establishment.
  - (2) A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board’s body art regulations.
  - (3) Sample of advertising.
  - (4) 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;
  - (5) Such additional information as the Board may reasonably require.
- (E) The Board shall set a reasonable fee for such permit.
- (F) A permit for a body art establishment shall not be transferable from one place or person to another.

**10. Application for Tattoo Practitioner / Piercing Practitioner Licenses**

- (A) No person shall practice body art or perform any body art procedure without first obtaining a practitioner license from the Health Department. The Board shall set a reasonable fee for such permits.
- (B) A practitioner shall be a minimum of 18 years of age and have a high school diploma or equivalent.
- (C) A practitioner license shall be valid from the date of issuance and shall automatically expire in one (1) year from the date of issuance unless revoked sooner by the Board.
- (D) Application for a practitioner license shall include:
  - (1) Name
  - (2) Date of birth
  - (3) Residence address.
  - (4) Mailing address.

- (5) Phone number.
- (6) Place(s) of employment as a practitioner.
- (7) A signed Amherst Health and Safety Agreement.
- (8) Training and/or experience as set out in (E) below.

(E) Practitioner Training and Experience

(1) In reviewing an application for a practitioner license, the Health Department may consider experience, training and/or certification acquired in other states that regulate body art.

(2) Every applicant for a Tattoo Practitioner or Piercer's license, including the renewal of such license, shall provide to the Department evidence of satisfaction of the following minimal training requirements:

(a) Current certification in First Aid and cardiopulmonary resuscitation (CPR).

(b) Successful completion of a Bloodborne pathogen training program (or equivalent) which includes infectious disease control; universal precautions; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques.

Examples of courses approved by the Board include "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.

(c) The applicant for a tattoo or piercing practitioner license shall provide documentation, acceptable to the Board, that s/he completed a course on skin diseases, disorders and conditions, including diabetes, or completed an examination on skin diseases, disorders and conditions, including diabetes, or possesses a combination of training and experience deemed acceptable to the Board.

(3) A practitioner's license shall be conditioned upon continued compliance with all applicable provisions of these regulations.

(4) *Tattoo Practitioner must provide documentation of one (1) year licensing as a tattooist or three (3) years apprenticeship training under a qualified tattooist, as a tattooist in another state or municipality.*

(5) Piercing Practitioner must provide documentation of a one (1) year license or a one (1) year apprenticeship training under a qualified piercer, as a piercer in another state or municipality.

## **11. Fine for Violation**

If upon inspection, an establishment is found to have violations of any provision of these regulations, it shall be re-inspected within 30 days. An establishment requiring re-inspection will be charged the current re-inspection fee. If violations continue to be found, the establishment will be subject to non-criminal ticketing and/or license suspension or revocation.

## **12. Non-Criminal Disposition**

Any provision of these Regulations may be enforced by a non-criminal disposition as provided by Town By-Law Article VI, Section 1 (b) and MGL Chapter 40, Section 21D. The enforcing person(s) shall be the Health Director or his/her designees including but not limited to: Sanitarian, Housing Inspector or its agent.

### **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.

## **13. Procedure for Hearings**

### (A) Suspension of a Permit

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

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

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

## **15. 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.

## **16. Severability**

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

## **17. Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit**

- (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:
- (1) Any actions which would indicate that the health or safety of the public would be at risk.
  - (2) Fraud, deceit or misrepresentation in obtaining a permit, or its renewal.
  - (3) 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 of nolo contendere or an admission of sufficient facts.
  - (4) Any present or past violation of the Board's regulations governing the practice of body art.
  - (5) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability.
  - (6) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.
  - (7) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a 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.
  - (10) Other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art; such as inability to provide all necessary qualifications and information required on the application form.

- (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.

### **18. Variance Provision**

Variance may be granted from a particular section or provision of this Body Art / Piercing Regulation by the Department with respect to a particular case only when, in the opinion of the Board of Health:

1. The enforcement of the subject section or provision would do manifest injustice.
2. The applicant for a Body Art Practitioner License or Body Art Establishment Permit, as the case may be, has proved to the satisfaction of the Board of Health that the same degree of protection required under this Body Art / Piercing regulation can be achieved without the strict application or enforcement of the subject section or provision.

### **19. Variance Request – Procedure**

- (A) Every request for a variance pursuant to section 18 of this Body Art Ordinance shall be made in writing to the Health Department and shall state the specific section or provision from which the variance is being sought.
- (B) Every Variance granted by the Board of Health shall be in writing and the original variance document shall be posted alongside the corresponding body art or piercing permit Section 5 (d)(6).
- (C) In the case of a variance relating to a Body Art or Piercing Establishment the variance must be posted alongside the corresponding establishment permit as required by Section 5 (d)(5).
- (D) A copy or duplicate original of all variance documents issued by the Department shall be held on file in the office of the Health Department of the Town of Amherst.
- (E) A Variance document issued by the Board of Health shall contain information so as to reasonably inform the public of the nature of the variance, the need therefore, the specific section or provision of this Body Art / piercing regulation from which variance was granted and the name of the subject Body Art Practitioner / piercer or Body Art Establishment.

- (F) Information advising as to whether the subject variance is unlimited in time or duration or has a fixed expiration date shall be detailed in all variance documents issued by the Board of Health.

**20. Variance -Qualification, Expiration, Revocation, Modification, Suspension**

Any variance granted by the Board of Health pursuant to section 18 of this Body Art / piercer regulation may be subject to such qualification, expiration, revocation, modification or suspension as the Board of Health in its discretion shall deem appropriate.

**21. Effective Date**

These Regulations shall be effective as of November 18, 2004.

Amendments approved by Board of Health. Effective July 10<sup>th</sup>, 2006

Amendments approved by Board of Health Effective May 31<sup>st</sup>, 2007

Amendments approved by Board of Health Effective August 30, 2012

