



REGULATION NO. BA-16

Tri-County Health Department Rules and Regulations for Body Art Establishments

**ADOPTED BY THE BOARD OF HEALTH OF THE
TRI-COUNTY HEALTH DEPARTMENT ON
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Pursuant to Title 25-04-2101, et seq. Colorado Revised Statutes

TABLE OF CONTENTS

SECTION 1: PURPOSE, AUTHORITY AND DEFINITIONS 4
1-101 Purpose.4
1-102 Authority.4
1-103 Definitions.4

SECTION 2: MINIMUM REQUIREMENTS FOR BODY ARTISTS 9
2-201 Body Artist Requirements.9
2-202 Documentation.9

SECTION 3: MINIMUM REQUIREMENTS FOR BODY ART ESTABLISHMENTS 9
3-301 License.....9
3-302 Person in Charge.....10
3-303 Employment Records.10
3-304 Documentation.10
3-305 Reporting.10

SECTION 4: CLIENT RECORDS 11
4-401 Client Records.11
4-402 Client Suitability.....11
4-403 Client Consent.11
4-404 Aftercare Instructions.12

SECTION 5: FACILITY AND OPERATIONAL REQUIREMENTS..... 13
5-501 Procedure Areas.....13
5-502 Restroom Facilities.13
5-503 Cleanliness.....13
5-504 Lighting.13
5-505 Surface Materials.13
5-506 Hand Sinks.13
5-507 Working Areas.13
5-508 Instrument Cleaning Sinks.....13
5-509 Water.14
5-510 Sewage.....14
5-511 Refuse.14
5-512 Waiting Area.14
5-513 Reusable Cloth.14
5-514 Animals.14
5-515 Chemicals.14
5-516 Human Habitation.14
5-517 Utility Sinks.....14
5-518 Sharps and Infectious/Regulated Waste.14
5-519 Building Codes.15

SECTION 6: TEMPORARY EVENTS AND MOBILE BODY ART REQUIREMENTS 15
6-601 Temporary Events.15
6-602 Mobile Body Art Establishments.....17

SECTION 7: EXPOSURE CONTROL PLAN AND PROCEDURES 18
7-701 Exposure Control Plan.....18
7-702 Written Procedures.18

SECTION 8: INSTRUMENTS/STERILIZATION 19

8-801 Instrument and Jewelry Cleaning.	19
8-802 Ultrasonic Cleaners.	19
8-803 Instrument Packaging/Wrapping.	20
8-804 Instrument Sterilization.	20
8-805 Instrument Storage.....	21
8-806 Single-Use Items.	21
8-807 Instrument Recall.....	21
SECTION 9: BODY ART PROCEDURE	22
9-901 Prohibitions.	22
9-902 Standard Procedures.	23
9-903 Procedures Specific to Tattooing.....	24
9-904 Procedures Specific to Body Piercing.	24
SECTION 10: BODY ART ESTBLISHMENT LICENSING, INSPECTION AND ENFORCEMENT	25
10-1001 Licensing.	25
10-1002 License and Inspection Fees.	26
10-1003 Licensing Procedure.	26
10-1004 Inspections.	27
10-1005 Enforcement.	27
SECTION 11: VARIANCE PROCEDURE	29

REGULATION BA-16
RULES AND REGULATIONS FOR BODY ART ESTABLISHMENTS
Effective Date: January 1, 2017

SECTION 1: PURPOSE, AUTHORITY AND DEFINITIONS

1-101 Purpose. The purpose of these Regulations is to provide for the safe and sanitary practice of Body Art, the safe and sanitary physical environment where Body Art is performed, the safe and sanitary conditions of equipment utilized in Body Art procedures, and to outline the regulatory functions of the Tri-County Health Department (“TCHD”), in relation thereto.

1-102 Authority.

(a) Body Artists, C.R.S. §25-4-2101, et. seq., (“Body Art Act”), sets forth a regulatory structure for the practice of Body Art.

(b) Pursuant to the authority granted in the Body Art Act, the State Board of Health of the Colorado Department of Public Health and Environment has adopted Rules and Regulations for Body Art Establishments, 6 CCR 1010-22 (“CDPHE Regulations”), which establishes the standards for Body Art Establishments and the practice of Body Art.

(c) Pursuant to the Body Art Act, as well as C.R.S. §25-1-506, C.R.S. §25-1-508 and C.R.S. §25-1-509, the Board of Health of TCHD is authorized and empowered to adopt rules and regulations which establish standards for Body Art Establishments and the practice of Body Art.

1-103 Definitions. For the purposes of these Regulations the following terms are defined as follows:

(a) **AFTERCARE INSTRUCTIONS** mean written instructions given to the client, specific to the Body Art procedure(s) rendered. These instructions shall include information regarding when to seek medical treatment, if necessary.

(b) **ANTISEPTIC** means a substance that inhibits growth of bacteria and other microorganisms when applied to the skin (e.g., chlorhexadine gluconate, alcohol, iodophor). It should not be used to decontaminate inanimate objects.

(c) **APPROVED** means reasonably acceptable to TCHD.

(d) **BOARD OF HEALTH** means the Board of Health of TCHD.

(e) **BLOODBORNE PATHOGEN** means disease-causing microorganisms that are present in human blood. These pathogens include, but are not limited to: hepatitis B virus (“HBV”), hepatitis C virus (“HCV”), and human immunodeficiency virus (“HIV”).

- (f) BLOODBORNE PATHOGEN COURSE means a course approved by TCHD that teaches the fundamentals of bloodborne pathogens, health and safety precautions, disinfection and sterilization techniques, and procedures for infection and exposure control.
- (g) BODY ART ESTABLISHMENT means any location, whether temporary, mobile or permanent, where the practices of Body Art are performed.
- (h) BODY ART means the practice of physical body adornment by Body Art Establishments or Body Artists utilizing, but not limited to, the techniques of body piercing, tattooing, branding, sculpting, and scarification. This definition does not include practices conducted under the supervision of a physician licensed to practice medicine under Colorado law or Ear Piercing.
- (i) BODY ARTIST means any person who performs Body Art procedures.
- (j) BRANDING means a potentially invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means.
- (k) CDPHE means the Colorado Department of Public Health and Environment.
- (l) CLIENT RECORDS means the records of each client of a Body Art Establishment, as more fully described in Section 4 herein.
- (m) COMPLICATION means an adverse medical response to a procedure.
- (n) CONTAMINATED means the presence or reasonably anticipated presence of blood, infectious materials or other types of impure materials that have corrupted a surface or item through contact.
- (o) CONTAMINATION means to make unfit for use by the introduction or potential introduction of blood, infectious materials or other types of impure materials.
- (p) CRITICAL ITEM VIOLATION means a provision of these Regulations that, if in non-compliance, has the potential for immediate impact on the public health by resulting in infection of either clients or staff of a Body Art Establishment, or disease transmission among clients or staff of a Body Art Establishment (i.e. immediate health risk; positive spore test).
- (q) C.R.S. means the Colorado Revised Statutes, as amended from time to time.
- (j) DISINFECTANT means an EPA registered hospital grade disinfectant which has effectiveness against *Salmonella Choleraesuis (enterica)*, *Staphylococcus aureus* and *Pseudomonas aeruginosa* or sodium hypochlorite (bleach) and water, ½ cup of 8.25% bleach and one gallon water, or other ratios for disinfectant specified on the bleach container, made fresh daily, dispensed from a spray bottle, and used to decontaminate

inanimate objects and surfaces.

(r) **DISINFECTION** means to destroy or inhibit pathogenic microorganisms on inanimate objects or surfaces. Disinfection is less than sterilization.

(s) **EAR PIERCING** means the procedure or practice of puncturing the outer perimeter or lobe of the ear using a pre-sterilized, single-use stud ear piercing system.

(t) **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 permanent, mobile or temporary Body Art Establishment.

(u) **EVENT COORDINATOR** means the person responsible for obtaining TCHD approval for a temporary body art event held in Adams, Arapahoe, or Douglas County, and the person responsible for ensuring compliance with these regulations at temporary events.

(v) **EXPOSURE CONTROL PLAN** means a written plan outlining the practices and procedures for the safe operation of a Body Art Establishment, as more fully set forth in Section 7, herein.

(w) **GLOVES** mean those which are disposable and single-use, and are labeled for surgical or examination purposes. Gloves for instrument cleaning shall be heavy-duty, multi-use and waterproof.

(x) **HEARING OFFICER** means the Executive Director of TCHD, or his or her authorized designee.

(y) **HECTOGRAPHIC** means a copy made from a prepared gelatin, or gelatin-like surface to which the original document has been transferred.

(z) **INFECTIOUS WASTE** or **REGULATED WASTE** means blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials; items caked with blood or other potentially infectious materials that can release these materials upon handling; contaminated sharps; and human pathological/anatomical waste.

(aa) **INSTRUMENTS** means disposable and non-disposable tools used for Body Art procedures, including, but not limited to sharps, tubes, grips, forceps, jewelry tools, etc.

(bb) **INVASIVE** means entry through the skin or mucosa either by incision or insertion of an instrument, body ornament, or any other means.

(cc) **JEWELRY** means any ornament inserted into the body.

(dd) LICENSE means a license to operate a Body Art Establishment located in TCHD's Jurisdiction issued by TCHD pursuant to Section 10, herein. All permanent, mobile and temporary Body Art Establishments located in TCHD's Jurisdiction must be Licensed.

(ee) LICENSEE means an owner or operator of a Body Art Establishment that has obtained a valid Body Art Establishment License from TCHD.

(ff) MINOR means an individual who has not obtained the age of eighteen (18) years.

(gg) MOBILE BODY ART ESTABLISHMENT means a Licensed Body Art Establishment that is readily moveable, such as a motorized wheeled vehicle or a towed wheeled vehicle, designed and equipped to conduct Body Art procedures pursuant to the provisions of these Regulations.

(hh) NEW FACILITY means a facility that (1) is making its initial application for Licensure as a Body Art Establishment, (2) a newly constructed facility, (3) an extensively remodeled facility, or (4) a facility that is changing its physical location.

(ii) PERSON IN CHARGE means the owner, manager or individual(s) present at the Body Art Establishment who is responsible for the operation at the time of an inspection. If no individual is responsible, then any employed person present is the Person in Charge. If multiple Body Artists share operation of the Body Art Establishment, then each Body Artist shall be considered a Person in Charge and shall be accountable for all of the requirements of these Regulations with regard to common areas and practices in addition to his/her own separate areas and practices.

(jj) PIERCE, PIERCED, PIERCING means puncturing or penetration of the skin or mucosa of a person and the insertion of jewelry or other adornment in the opening, except that Ear Piercing shall be exempt from these Regulations.

(kk) PRE-STERILIZED INSTRUMENTS mean those that are commercially sterilized by the manufacturer. Packaging shall bear a legible sterilization lot number and expiration date.

(ll) PROCEDURE AREA means any surface of an inanimate object that contacts the client's skin during a Body Art procedure and all surfaces where instruments and supplies are placed during a procedure.

(mm) REGULATIONS means these Rules and Regulations for Body Art Establishments

(nn) REUSEABLE DEVICES means instruments or other items of equipment that are approved by the manufacturer for reuse after appropriate cleaning, decontamination, and sterilization.

(oo) SCARIFICATION means an invasive procedure in which the intended result is the production of scar tissue on the surface of the skin.

(pp) SCULPTING means a modification of the skin, mucosa, cartilage, or tissue of the body for non-medical purposes.

(qq) SERVICE ANIMAL means a dog or other animal that is individually trained to do work or perform tasks for a person with a disability, as it complies with the most recent version of the Americans with Disabilities Act (“ADA”). Pursuant to the ADA, emotional support animals do not meet the definition of service animals.

(rr) SHARPS CONTAINER means a puncture-resistant, leak-proof, rigid container that can be closed for handling, storage, transportation and disposal, and is labeled with the Universal Biological Hazard Symbol.

(ss) SHARPS mean all objects (sterile or contaminated) that may purposely or accidentally cut the skin or mucosa including, but not limited to, single-use needles, scalpel blades and razor blades.

(tt) SIGNS OF INFECTION means including, but not limited to, redness, swelling, tenderness of the procedure site, red streaks going from the procedure site towards the heart, elevated body temperature, or purulent drainage from the procedure site.

(uu) STERILIZATION means a process that results in the total destruction of all forms of microbial life, including highly resistant bacterial spores on reusable equipment and devices in direct contact with bodily fluids.

(vv) STERILIZER means an autoclave that is designed and labeled by the manufacturer as a medical instrument sterilizer and is used for the destruction of microorganisms and their spores, resulting in complete sterilization.

(ww) TATTOO, TATTOOED, TATTOOING means inserting pigment under the surface of the human skin or mucosa by pricking with a needle or other means, to permanently change the color or appearance of the human skin or to produce an indelible mark or figure visible through the human skin.

(xx) TCHD means the Tri-County Health Department.

(yy) TCHD’S JURISDICTION means the counties of Adams, Arapahoe and Douglas, Colorado, including all municipalities contained therein.

(zz) TEMPORARY BODY ART ESTABLISHMENT or TEMPORARY EVENT means an industry trade show, convention, procedural/product demonstration, educational seminar, or other similar event, lasting no longer than fourteen (14) consecutive days, at which Body Artists perform Body Art services and procedures outside of a permanent Body Art Establishment.

(aaa) UNIVERSAL PRECAUTIONS mean a set of precautions designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B and other bloodborne pathogens as defined by the Centers for Disease Control and Prevention (“CDC”). Under Universal Precautions, blood and certain body fluids of all individuals are considered infectious.

(bbb) ULTRASONIC CLEANING UNIT means a piece of equipment approved by TCHD, that is physically large enough to fully submerge instruments in liquid, and which removes foreign matter from the instruments by means of heat and/or high frequency oscillations transmitted through the contained liquid.

(ccc) WATER, APPROVED SOURCE means adequate, uncontaminated water for the needs of the Body Art Establishment provided from a source constructed, maintained, and operated according to the *Colorado Primary Drinking Water Regulations*.

SECTION 2: MINIMUM REQUIREMENTS FOR BODY ARTISTS

2-201 Body Artist Requirements. All Body Artists shall comply with the following requirements, and shall:

(a) Within 90 days of initially being hired, or within 90 days of enactment of this Regulation, successfully complete an approved Bloodborne Pathogen Course in compliance with the provisions of these Regulations, and obtain a written Certificate of Completion for the course. The Certificate of Completion for each Body Artist shall be posted in a conspicuous place in the Body Art Establishment visible to patrons.

(b) Obtain written re-certification of the Bloodborne Pathogen Course on a yearly basis.

(c) Possess and demonstrate knowledge of the Exposure Control Plan and the procedures set forth therein, Universal Precautions, health and safety precautions, and disinfection and sterilization techniques.

(d) Within 90 days of initially being hired, receive vaccination against hepatitis B (HBV) or provide a written statement to the manager or owner of the Body Art Establishment stating that he or she declines the vaccination.

2-202 Documentation. Body Artists shall have an ongoing obligation to provide the documentation described in Section 2-101 to the staff of TCHD upon request.

SECTION 3: MINIMUM REQUIREMENTS FOR BODY ART ESTABLISHMENTS

3-301 License. As more fully set forth in Section 10, herein, all Body Art Establishments within TCHD’s Jurisdiction shall have a validly issued and in good standing License prior to performing Body Art procedures.

3-302 Person in Charge. Each Body Art Establishment must have a Person in Charge at all times who is responsible for the operation of the Body Art Establishment.

3-303 Employment Records. The following information on each employee of a Body Art Establishment shall be on file and available for inspection by TCHD at all times during operating hours:

- (a) Full legal name.
- (b) Artist identifier name (i.e. nickname), if applicable.
- (c) Home address.
- (d) Home phone number.
- (e) Written proof that all Body Artists, or other employees handling sharps and/or infectious waste, have successfully completed an approved Bloodborne Pathogen Course and that each certification is current.
- (f) Written proof that all Body Artists, or other employees handling sharps and/or infectious waste, have either completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering shall be included as a pre-employment requirement and comply with 2-201(d).

3-304 Documentation. The Person in Charge shall have access to the following information and it shall be on the premises for review by TCHD at all times during operating hours:

- (a) Contract or agreement for sharps disposal and/or other infectious/regulated waste disposal.
- (b) Spore test log and test results.
- (c) Each client record for at least 3 years after last being seen by the Body Art Establishment.
- (d) Manufacturer's information on sterilization and ultrasonic cleaning equipment.
- (e) A written Exposure Control Plan, as set forth in Section 7, herein.
- (f) Current Body Art Establishment License.

3-305 Reporting. Each Body Art Establishment shall report to TCHD all infections, complications or diseases resulting from any Body Art procedure within 24 hours of receipt of knowledge by the Person in Charge, or any other owner, manager or employee.

SECTION 4: CLIENT RECORDS

4-401 Client Records. The Person in Charge shall have access to and shall maintain records at the Body Art Establishment for all clients of the Body Art Establishment for a minimum of three (3) years after each client has last been seen. The Client Records shall be available for review by the staff of TCHD at all times during operating hours.

4-402 Client Suitability. The following information shall be documented and used by the each Body Artist to determine the client's suitability for receiving a Body Art procedure. In order to assure, insofar as possible, the proper healing of a client following a Body Art procedure, the client shall be asked to disclose if he/she has any of the following:

- (a) Diabetes.
- (b) Hemophilia.
- (c) Skin diseases or skin lesions.
- (d) Allergies or adverse reactions to latex, pigments, dyes, disinfectants, soaps or metals.
- (e) Treatment with anticoagulants or other medications that thin the blood and/or interfere with blood clotting.
- (f) Any other information that would aid the Body Artist in the client's Body Art healing process evaluation.

4-403 Client Consent. A written client consent form for all procedures shall document the following:

- (a) Name, address, current phone number, age and signature of the client.
- (b) Date of the procedure.
- (c) The type and location of the Body Art.
- (d) Identification of the sterilized instrument(s) (i.e. date and time) used during the procedure that corresponds with the autoclave load log for those instruments and/or package/lot number.
- (e) Documentation that information regarding risks and outcome were discussed and written information was provided prior to the procedure including:
 - (1) Advising the client that Tattoos should be considered permanent, that it can only be removed with a surgical or laser procedure and that any effective removal may leave scarring;

- (2) Explanation to the client of the healing process including the expected duration, possible side effects, abnormalities, and restrictions or limitations.
- (f) Verification that written and verbal Aftercare Instructions were provided to the client.
- (g) The name or identifier name of the Body Artist performing the Body Art procedure.
- (j) Minor Client: In the case of a Minor client, the following additional information shall be recorded on the client consent form.
 - (1) Name, address, current phone number and signature of parent or legal guardian giving consent to the Body Art procedure for their children under 18 years old. If a client is under 18 years old and provides proof of emancipation, a copy of this record must be kept with their file.
 - (2) A description or copy of documentation shown to the Body Artist to indicate parentage or guardianship such as an original copy of a birth certificate, or original court order of guardianship.
 - (3) A copy of a state or federal photo I.D. of the person attesting to their status as custodial parent or legal guardian of the Minor client, and their signed written consent to allow a specific Body Art procedure to be performed on the Minor client.

4-404 Aftercare Instructions. For each Body Art procedure written and verbal Aftercare Instructions shall be provided to the client including at a minimum the following information:

- (a) Name, address, and phone number of the Body Art Establishment and the name or identifier name of the Body Artist who performed the procedure.
- (b) Information on when the client should consult a physician for additional care, which shall include signs of infection, and allergic reaction.
- (c) The expected duration of healing.
- (d) Detailed description of how to care for the Body Art procedure site, including but not limited to, the following:
 - (1) Proper hand washing prior to handling, cleaning and caring for the procedure site.
 - (2) Instructions to use clean bed linens and bath towels throughout the healing period.

- (3) Any restrictions of physical activity, swimming, bathing, sauna use, etc.
- (e) Possible side effects from the procedure.

SECTION 5: FACILITY AND OPERATIONAL REQUIREMENTS

5-501 Procedure Areas. All Procedure Areas and instrument cleaning areas shall have floors, walls and ceilings constructed of smooth, nonabsorbent and easily cleanable material. Outer openings shall provide protection against contamination from dust and other contaminants (e.g. rodents, insects, etc.). In Body Art Establishments that conduct branding, adequate ventilation shall provide free and unrestricted circulation of fresh air throughout the facility and the expulsion of foul odors and stagnant air.

5-502 Restroom Facilities. Restroom facilities, including restroom facilities that are rented, shared, or owned by the Body Art Establishment, shall be provided and shall be made available to both patrons and employees during all operating hours. Floors and walls within restroom facilities shall be constructed of smooth, nonabsorbent and easily cleanable material. It shall be the responsibility of the Person in Charge to ensure that all restroom facilities are in good working order, specifically including all restroom hand sinks, which must have hot and cold water, and be stocked with soap and paper towels at all times.

5-503 Cleanliness. The premises shall be maintained in a clean manner and in good repair.

5-504 Lighting. At least fifty (50) foot candles of artificial light shall be provided at the level where the Body Art procedure is performed and in instrument cleaning and sterilization areas, and at least twenty (20) foot candles of artificial light shall be available in all other areas.

5-505 Surface Materials. All surfaces, including, but not limited to, counters, tables, equipment, chairs, recliners, shelving and cabinets in the procedure area and instrument cleaning room shall be made of smooth, nonabsorbent materials to allow for easy cleaning and disinfection.

5-506 Hand Sinks. Hand sinks shall be supplied with hot and cold running water delivered through a mixing faucet and under pressure. Hot water must reach a minimum temperature of 90°F and may not exceed a temperature of 120°F at each designated hand sink. Hand sinks shall be easily accessible to each procedure area and shall be located so that one Body Artist does not potentially contaminate another Body Artist's procedure area. Each hand sink shall be provided with soap and disposable towels or a hand-drying device providing heated air. In addition, a hand sink shall be provided in or adjacent to each restroom room.

5-507 Working Areas. Distinct, separate areas shall be used for cleaning equipment, wrapping/packaging equipment, and for the handling and storage of sterilized equipment.

5-508 Instrument Cleaning Sinks. Instrument cleaning sinks and utility sinks shall be supplied with hot and cold running water delivered through a mixing faucet and under pressure. Hot water temperature shall at all times be a minimum of 90 F. Utility sinks, instrument cleaning sinks and

hand sinks shall be separate and must only be used for their designated purpose.

5-509 Water. Water shall be supplied from a source approved by TCHD.

5-510 Sewage. Sewage, including liquid wastes, shall be discharged to a sanitary sewer or to a sewage system constructed, operated and maintained according to applicable law.

5-511 Refuse. Refuse, excluding infectious wastes, shall be placed in a lined waste receptacle and disposed of at a frequency that does not create a health or sanitation hazard.

5-512 Waiting Area. All facilities shall have a waiting area that is separate from the Body Art procedure area, and from the instrument cleaning, sterilization, and storage areas.

5-513 Reusable Cloth. Reusable cloth items shall be mechanically washed with detergent in water at a minimum of 140° F, unless an approved disinfectant is applied in the rinse cycle or the dryer uses heat above 140°F as specified by the manufacturer. Clean cloth items shall be stored in a clean, dry environment until used. Soiled laundry shall be stored in a nonabsorbent container until removed for laundering and shall be stored separate from clean cloths.

5-514 Animals. Animals shall not be allowed in the Body Art Procedure Areas, or the instrument cleaning, sterilization, or storage areas. Fish aquariums and/or Service Animals shall be allowed in waiting rooms and non-procedural areas. Service Animals shall be allowed in the Procedure Areas, if necessary for the Client.

5-515 Chemicals. All chemicals shall be labeled with contents, properly stored, and used according to label instructions.

5-516 Human Habitation. All Body Art Establishments shall be completely separated from areas used for human habitation, food preparation, hair or fingernail care or other such activities that may cause potential contamination of work surfaces.

5-517 Utility Sinks. In any new facility, as defined in Section 1-103, herein, a conveniently located utility sink or curbed cleaning facility provided with hot and cold water shall be provided and used for the cleaning of mops or similar wet floor cleaning materials, and for the disposal of mop water or similar liquid wastes. Utility sinks with threaded faucets shall be equipped with backflow prevention devices approved by TCHD.

5-518 Sharps and Infectious/Regulated Waste. Sharps and infectious/regulated waste must be handled in a manner consistent with C.R.S §25-15-401.

(a) Discarded sharps, including needles and/or needle bars, shall be disposed of in sharps containers. Sharps containers shall not be filled past the rim/overflowing.

(b) Infectious/regulated waste other than sharps shall be placed in impervious, tear resistant, plastic bags, which are red in color and marked with the Universal Biological Hazard Symbol.

- (c) Full bulk sharps containers must be disposed of within 48 hours, or as otherwise required by TCHD.
- (d) Sharps and infectious/regulated waste shall be disposed of by an approved, off-site treatment facility, or waste may be treated on-site if the treatment complies with all federal, state and local laws and regulations.
- (e) On-site treatment requires a written plan outlining disposal as required in Section 7-702(j).

5-519 Building Codes. All Permanent or Temporary Body Art Establishments shall be constructed and operated in compliance with all applicable local building codes, rules and regulations.

SECTION 6: TEMPORARY EVENTS AND MOBILE BODY ART REQUIREMENTS

6-601 Temporary Events.

- (a) Temporary Event Licenses are required and may be issued when:
 - (1) The event coordinator has submitted a completed Temporary Event License application for the Temporary Event to TCHD at least thirty (30) days prior to the proposed start date of the Temporary Event.
 - (2) The event coordinator has paid all fees required by TCHD.
 - (3) The Temporary Event Body Artists are either:
 - (i) Affiliated with a Body Art Establishment approved by the appropriate Body Art regulatory authority for their home jurisdiction or,
 - (ii) Sponsored by the Licensee of a Body Art Establishment licensed in TCHD's Jurisdiction, provided a written sponsorship agreement is submitted to TCHD with the Temporary Event application. The Licensee shall be responsible for ensuring that each Body Artist understands the requirements of these Regulations.
 - (4) Each Body Artist has complied with the following:
 - (i) Section 2-201(c); and
 - (ii) Has received vaccination against hepatitis B (HBV) or has provided a written statement to the Temporary Event Licensee stating that he or she declines the vaccination.
 - (5) TCHD has determined that the Temporary Event facility is in compliance with Section 5 of these Regulations.

- (b) The following shall govern Temporary Event licenses:
- (1) Temporary Event licenses shall be valid for a period of not more than fourteen (14) consecutive days beginning on the first day of the Temporary Event.
 - (2) Temporary Event Licenses are valid for one location and are not transferable from one place to another.
 - (3) Temporary Event Licenses shall be posted in a prominent location and shall be conspicuously visible to patrons.
 - (4) Temporary Event License will be issued to the coordinator after an onsite inspection has been completed by TCHD staff, and the Temporary Event meets all requirements of Section 5 of these regulations.
- (c) Except for the following modifications, Temporary Events shall comply with all of the provisions of these Regulations:
- (1) When permanent hand washing stations are not readily accessible, Body Artists may utilize temporary hand washing stations that are capable of providing a hands-free, continuous flow of warm potable water. All water shall be from an approved source and the water supply must be of adequate volume and pressure to facilitate proper hand washing. If a temporary hand sink will be used, the event coordinator must contact TCHD prior to the Temporary Event for approval. Liquid soap or detergent and individual paper towels shall also be provided. Temporary hand washing stations shall be used only for hand washing, and shall be located in such a manner as to not potentially contaminate a Body Artist's workstation. The event coordinator must ensure that water supplies, liquid soap or detergent and individual paper towels for temporary hand washing stations are replenished as needed.
 - (2) Wastewater from temporary hand washing stations shall be collected in a sanitary container. The event coordinator is responsible for ensuring that wastewater containers are drained into an approved sanitary sewage system as frequently as needed.
 - (3) Body Artists are only permitted to use instruments which have been sterilized at a Permanent Licensed Body Art Establishment (or other licensing jurisdiction approved by TCHD), with documentation showing a negative spore test result within the previous 30 days or less prior to the date of the event; or single-use, prepackaged, commercially sterilized instruments obtained from reputable suppliers and manufacturers. On site cleaning and sterilization of instruments at Temporary Events is prohibited.
 - (4) If at any time the Temporary Event violates any part of these Regulations and is presenting significant health hazards to the public, the Temporary Event will be required to cease all operations after receiving written notice from TCHD.

6-602 Mobile Body Art Establishments.

- (a) Mobile Body Art Establishments must receive a Licensing inspection at least annually at a location determined by the TCHD. Each Licensee of a Mobile Body Art Establishment must contact TCHD for the annual inspection before operating. Additional inspections may be performed at any event or location where the Mobile Body Art Establishment is scheduled to operate.
- (b) The onboard cleaning and sterilization of instruments within Mobile Body Art Establishments is prohibited. Mobile units must be associated with a Licensed permanent Body Art Establishment (or other licensing jurisdiction approved by TCHD), to clean and sterilize instruments, with documentation showing a negative spore test result within the previous 30 days or less, or only use single-use, prepackaged, commercially sterilized instruments obtained from reputable suppliers and manufacturers. Mobile Body Art Establishments shall have sufficient instruments, equipment, and supplies onboard to perform Body Art procedures.
- (c) In order to obtain approval to operate during a Temporary Event, a mobile unit Licensee must work with the event coordinator to ensure that their mobile unit is included in the Temporary Event License application.
- (d) Mobile units must comply with the following:
- (1) Section 2, 3, 4, 6, 7, 8, 9, 10 and 11 of these Regulations in their entirety, as well as Section 5, except as modified in this Section 6-602.
 - (2) A Mobile Body Art Establishment shall be used only for the purpose of performing Body Art procedures. No habitation or food preparation is permitted inside the mobile unit.
 - (3) Exterior doors shall be self-closing and tight fitting. Operable windows shall have tight fitting screens of at least 16 mesh per inch or greater. Inoperable windows shall be sealed shut.
 - (4) The Mobile Body Art Establishment shall be equipped with a hand sink for the exclusive use of the Body Artist for handwashing and preparing the client for the Body Art procedures. The hand sink shall be in compliance with Section 5-506. An adequate supply of potable water shall be maintained for the Mobile Body Art Establishment at all times during operation. The source of the water and storage (in gallons) of the tank(s) shall also be identified.
 - (5) The water supply tank(s) shall be designed to be easily flushed and with a drain that permits complete drainage of the tank. The potable water tank shall have no common interior partition with the wastewater tank(s) or with any other tank(s) holding any other liquids. The water tank overflow or vent shall terminate in a downward direction and shall be located and constructed so as to prevent the entrance of contaminants.

- (6) All wastewater shall be drained to a retention tank at least 15% larger than the potable water storage capacity of the unit. Wastewater shall be delivered to the retention tank by means of one of more sinks or other approved plumbing fixtures, and a sealed drain pipe. Wastewater shall be discharged from the waste retention tank to an approved sewage disposal facility and flushed as often as necessary to maintain sanitary conditions.
- (7) The potable water tank inlet and wastewater tank outlet shall be permanently fitted in a manner to preclude the connection of a potable water hose to the wastewater tank drain, or a wastewater drain hose to the potable water tank inlet.
- (8) Restroom facilities shall be located within 200 feet from the mobile unit and shall be accessible while the mobile unit is in operation.
- (9) During operation of a mobile unit, all doors shall be kept closed to help prevent contamination of surfaces within the mobile unit.
- (10) All Body Art procedures shall be performed only within the mobile unit.

SECTION 7: EXPOSURE CONTROL PLAN AND PROCEDURES

7-701 Exposure Control Plan. Every mobile, temporary or permanent Body Art Establishment shall have, and comply with, a written Exposure Control Plan. All Exposure Control Plans, and the procedures developed therein, shall be in compliance with Occupational Safety and Health Administration, Centers for Disease Control and Prevention standards, and all local and state regulations.

7-702 Written Procedures. The Exposure Control Plan shall have written procedures that address, at a minimum, the following:

- (a) Instrument cleaning and sterilization;
- (b) Cleaning and disinfection of the procedure area(s), as required in Section 9-902;
- (c) Storage and disposal of sharps;
- (d) Universal Precautions procedures;
- (e) Post exposure procedures;
- (f) Use of personal protective equipment;
- (g) Hand washing procedures;
- (h) Chemical storage and safety;
- (i) Injury and illness prevention; and

(j) Infectious Waste Management plan, consistent with C.R.S. §25-15-401, including segregation, identification, packaging, storage, transport, treatment, disposal and contingency planning for blood spills or loss of containment of infectious/regulated waste.

SECTION 8: INSTRUMENTS/STERILIZATION

8-801 Instrument and Jewelry Cleaning.

(a) All non-disposable instruments and Jewelry that penetrate body tissue, and all non-disposable tubes, grips, forceps, jewelry tools, etc., that can be sterilized, shall be properly cleaned prior to packaging, and sterilized. All other instruments shall be cleaned and disinfected after each use.

(b) All unused instruments placed in the procedure area shall be repackaged and re-sterilized.

(c) All employees shall wear the following while cleaning instruments:

- (1) Heavy-duty, multi-use, and waterproof gloves.
- (2) Face protection that covers the mouth, nose and eyes.
- (3) Garment protection in the form of aprons and sleeves.

(d) Used instruments shall be soaked in a disinfectant manufactured for the specific purpose of treating blood soaked instruments until cleaning can be performed. The solution shall be periodically changed in the time interval recommended by the solution manufacturer.

(e) Instruments shall be disassembled for cleaning.

(f) All instrument components shall be cleaned, either manually or in an ultrasonic cleaner, using the appropriate cleaning agent specific to the type of cleaning performed.

(g) Instruments shall be rinsed clean of any detergents and cleaning residue and dried prior to packaging.

(h) Cleaning tools shall be stored in a manner that minimizes contamination of work surfaces.

8-802 Ultrasonic Cleaners.

(a) All ultrasonic cleaners shall be capable of heating the cleaning solution.

(b) All ultrasonic cleaners shall have the capacity to adequately clean the volume of

dirty instruments generated by the Body Art Establishment.

- (c) The aerosolized particulates generated by the ultrasonic cleaner shall be contained by adequately covering the ultrasonic cleaner while in use.
- (d) In rooms where clean instrument handling is taking place, an ultrasonic cleaner shall not be in operation at the time that sterile packages are being handled.
- (e) The operation of ultrasonic cleaner in procedure areas is prohibited.

8-803 Instrument Packaging/Wrapping.

- (a) Employees shall change into a new pair of clean single use gloves while packaging/wrapping instruments.
- (b) Instruments shall be wrapped or packaged with a sterilizer indicator on or in each package.
- (c) All packages shall be labeled with the time and date of sterilization.
- (d) Packages shall no longer be considered sterile six (6) months after the date of sterilization.

8-804 Instrument Sterilization.

- (a) The sterilizer shall be designed and labeled as a medical instrument sterilizer;
- (b) The operators' manual for the sterilizer shall be available on the premise and the sterilizer shall be operated according to manufacturer's recommendations, with appropriate adjustments for altitude.
- (c) The sterilizer shall be cleaned and maintained according to the manufacturer's specifications.
- (d) A sterilizer load log shall be maintained for a minimum of three (3) years at the facility and made available for inspection. The log shall contain the following documentation for each load:
 - (1) Name of person who operated the sterilizer, and name or initials of person who verified the color indicator change on each package.
 - (2) Description of instruments contained in the load;
 - (3) Date of sterilization load, and time or other unique identifier if more than one load is processed during a single day;
 - (4) Sterilizer cycle time and temperature;

- (5) Indication of proper sterilization of instruments, as evidenced by the appropriate color indicator change on each package. Indicator used shall be compatible with the sterilization process being used; and
 - (6) Action taken when appropriate color indicator change did not occur.
- (e) Sterilizer Monitoring
- (1) Sterilizer monitoring shall be performed at least every 30 days (unless more frequent monitoring is specified by the manufacturer) by using a commercial biological monitoring (spore) system.
 - (2) All biological indicators shall be analyzed by a laboratory independent from the Body Art Establishment.
 - (3) Biological indicator test results shall be maintained on the premises for a minimum of three (3) years and must be available for inspection at all times.
 - (4) TCHD may require the Body Art Establishment to submit copies of the sterilizer monitoring results by mail, facsimile or in person.

8-805 Instrument Storage.

- (a) Hands shall be washed in accordance with these Regulations, and gloved with single-use gloves, prior to handling sterilized instrument packages.
- (b) After Sterilization, the instruments shall be stored in a dry, clean area reserved for storage of sterile instruments, and in a manner that limits the sterility of the packaging being compromised.

8-806 Single-Use Items.

- (a) Single-use items shall be stored in a dry, clean manner.
- (b) Single-use items shall be handled in such a manner that prevents any contamination.
- (c) Single-use items shall not be used on more than one client and shall be disposed of immediately after the Body Art procedure.
- (d) Contaminated single-use needles, bars, razors and other sharps shall be disposed of immediately in approved sharps containers.

8-807 Instrument Recall.

- (a) In the event of a positive biological indicator result or mechanical failure, all

items sterilized since the time of the last negative biological monitor result shall immediately be recalled and prohibited from use until the cause of the positive biological indicator test result is identified. Additionally, the sterilizer with the positive biological indicator result shall not be used to sterilize instruments until the cause of positive indicator testing is identified.

(b) Biological monitor testing shall be repeated, and if negative, all recalled items may be used and sterilization may continue. If repeat testing is positive, sterilizer servicing shall be performed. The sterilizer may not be used until sterilizer service is complete and biological indicator testing is negative.

(c) If a mechanical or procedural failure was identified as evidenced by a repeat positive biological indicator test, the facility shall re-sterilize all recalled instruments and assess if any items were used since the time of the last negative indicator test. TCHD shall immediately be notified of the mechanical failure.

SECTION 9: BODY ART PROCEDURE

9-901 Prohibitions. The following are prohibited in any Body Art procedure:

(a) Body Art procedures performed anywhere, for any reason, except within a Licensed Body Art Establishment.

(b) Procedures performed on any person who is noticeably impaired by drugs or alcohol.

(c) Smoking, vaping, eating, and drinking in the procedure and/or instrument cleaning areas. This excludes dissolvable glucose tablets or hard candies for client use when determined by the Body Artist to be medically necessary.

(d) Procedures performed on skin surfaces that have sunburn, rash, pimples, boils, infections, moles, or manifest any evidence of unhealthy conditions.

(e) Any procedure that must be conducted under the supervision of a physician licensed to practice medicine under Colorado law, as required in the Department of Regulatory Agencies, Colorado Medical Board, Rule 800 – Delegation and Supervision of Medical Services to Unlicensed Health Care Providers Pursuant to C.R.S. §12-36-106(3)(l).

(f) Operations only conducting permanent makeup procedures are exempt from the licensing portion of this regulation. Permanent makeup is not regulated by TCHD; however, the operator must contact the Colorado Board of Cosmetology for their requirements and follow these regulations.

(g) Performing Body Art Procedures on a Minor client without the express written consent from the Minor's custodial parent or legal guardian as described in Section 4-403(J)

(h) Performing Body Art Procedures without meeting the requirements of Section 2-201(a) and 2-201(b) of these Regulations, except that a Body Artist who is not affiliated with a Licensed Body Art Establishment in TCHD's Jurisdiction may perform Body Art procedures at a Licensed Temporary Event subject to the provisions of Section 6-601(a)(4).

9-902 Standard Procedures. The following procedures shall be practiced by all Body Artists:

(a) Thoroughly wash hands with soap and warm water for at least 15 seconds before and after serving each client. Following thorough washing, hands shall be dried using clean, disposable paper towels, or a hand-drying device providing heated air.

(b) Wear new, clean single-use gloves for each procedure. If a glove is pierced, torn or contaminated, both gloves must be properly removed and discarded. Hands shall be washed prior to donning a new pair of gloves.

(c) Use barrier films when appropriate to cover all items gloved hands would normally come into contact with during a procedure. These items include, but are not limited to, machine heads, clip cords, spray bottles, seat adjustment controls, power control dials or buttons and work lamps. Change barriers, drapes, lap cloths or aprons between each client. If multi-use, these items shall be washed according to Section 5-513 prior to reuse.

(d) Any part of a tattooing machine that may be touched by the Body Artist during the procedure shall be covered with a disposable plastic sheath that is discarded upon completion of the procedure, and the machine shall be decontaminated upon completion of the procedure.

(e) Wear new, clean single use gloves while assembling instruments and supplies to be used in the procedure. All sterilized instruments shall remain in the sterile packages until opened in front of the client.

(f) Dispense all substances used in the procedures from containers in a manner to prevent contamination of the unused portion. For example, substances from multi-use containers shall be dispensed into single-use portions and shall be applied to only one client.

(g) Discard single-use ointment tubes, applicators and supplies after the procedure.

(h) All used sharps must be immediately placed in an approved sharps container. Sharps containers should be used, maintained, and stored in a manner to avoid possible client or employee exposure.

(i) After each client, use a disinfectant according to label instructions, and a single-use paper towel to wipe all surfaces touched during the procedure. Surfaces include, but

are not limited to, counters, tables, equipment, chairs, recliners, shelving, cabinets, and supplies.

9-903 Procedures Specific to Tattooing.

- (a) The use of Hectographic or single-use stencils shall be required for applying a Tattoo outline to the skin, except that, when the design is drawn free hand, non-toxic single-use markers or other non-toxic single-use devices shall be used. Multi-use stencils are prohibited unless they can be properly disinfected between uses.
- (b) Before placing the design on the skin, the Body Artist shall clean the area with soap and, if necessary, shave off any hair with a disposable, single-use safety razor or a disinfected multi-use razor. The area shall be treated with an Antiseptic prior to stencil application.
- (c) Inks, dyes, or pigments in single-use containers shall be used for each client. Any remaining unused dye or pigment shall be discarded immediately following the Tattoo procedure.
- (d) If inks, dyes, or pigments are prepared by the Body Artist, a list of ingredients and the procedure used in the production must be on file for review by TCHD.
- (e) Excess ink, dye, or pigment applied to the skin during Tattooing shall be removed with a clean single-use product and properly disposed of.
- (f) After Tattooing procedure is completed the area Tattooed shall be covered with a clean and appropriate absorbent bandage and held in place with a suitable skin tape. Plastic wrap is not recommended.
- (g) Materials used for bandaging shall be stored and handled in a clean manner free from possible contamination.

9-904 Procedures Specific to Body Piercing.

- (a) The body area to be Pierced shall be cleansed, where appropriate, and treated with a medical antiseptic prior to beginning the Piercing procedure. The use of medical antiseptics, whether topical or oral, shall comply with the manufacturer's recommendations.
- (b) All body Piercing needles shall be sterile, single-use, and manufactured for either medical or body Piercing purposes. All needles shall be disposed of immediately after use in a sharps container.
- (c) Only jewelry that has been sterilized as specified in Sections 8-801 through 8-804, pre-sterilized jewelry packs, or new jewelry that has been Disinfected, is clean, and in good condition shall be used. Sterile jewelry packs shall be evaluated before use and, if the integrity of a pack is compromised, including, but not limited to, being torn, wet, or

punctured, the pack shall be discarded or Sterilized before use.

(d) Only jewelry made of ASTM F138, ISO 5832-1, and AISI 316L or AISI 316LVM implant grade stainless steel, solid 14-karat through 18-karat yellow or white gold, niobium, ASTM F 136 6A4V titanium, platinum, or other materials found to be equally biocompatible, shall be placed in newly pierced skin.

(e) Jewelry surfaces and ends must be smooth, free of nicks, scratches, burrs, polishing compounds and metals, and must have a consistent mirror finish

(f) Stud-and-clasp systems shall be used according to manufacturer's instructions and shall only be used on the earlobe or the outer perimeter of the ear.

(g) Any experimental piercing equipment must be approved by the CDPHE.

SECTION 10: BODY ART ESTABLISHMENT LICENSING, INSPECTION AND ENFORCEMENT

10-1001 Licensing.

(a) Existing Body Art Establishments in operation at the time of the enactment of this Regulation shall be required to obtain a Body Art Establishment License within 90 days of the enactment of this Regulation.

(b) No person, firm, partnership, joint venture, association, business trust, corporation, or any organized group of persons may advertise Body Art services or operate a Body Art Establishment in TCHD's Jurisdiction, unless it has received a Body Art Establishment License from TCHD.

(c) All individual Body Art Establishments must have a separate License.

(d) The License will be valid for the calendar year in which the License was issued (January 1 through December 31), and may be renewed annually.

(e) A License for a Body Art Establishment shall not be transferable from one Licensee or Licensed Body Art Establishment to another. If a Licensee is a corporation, partnership or other legal entity, and if at any time the person or persons who own a majority of either the outstanding voting interest or all outstanding ownership interests of the Licensee at the time of the issuance of the initial License cease to own a majority of such interest (except as a result of transfers by devise or descent), the loss of greater than a majority (50%) of such interest shall be deemed a transfer of the License. Upon any transfer, a new License and corresponding inspection shall be required.

(f) A current Body Art Establishment License shall be posted in a prominent and conspicuous area within the facility where clients may readily observe it.

10-1002 License and Inspection Fees.

- (a) TCHD will establish an annual License fee, as modified from time to time, which shall be no greater than that required to offset the actual costs incurred by TCHD to provide the licensing services associated with regulating the practice of Body Art in TCHD's Jurisdiction.
- (b) TCHD will set inspection fees for pre-opening inspections and remodeling inspections, as modified from time to time, which shall be no greater than required to offset the actual costs incurred by TCHD in providing said inspections. Annual inspections shall be included in the cost of the annual License fee.
- (c) The cost of a Temporary Event License shall equal TCHD's actual cost to provide the inspection and Licensing services that are associated with the particular Temporary Event that the License covers.

10-1003 Licensing Procedure. A Body Art Establishment License shall be issued by TCHD upon compliance with the following procedures:

- (a) Body Art Establishment Application. The prospective Licensee of a Body Art Establishment shall submit a Body Art Establishment License application to TCHD in a form established by TCHD, as amended from time to time, which shall include, but not be limited to, the following information:
 - (1) Ownership information of prospective Licensee.
 - (2) Equipment specification sheets as requested by TCHD
 - (3) Information on source of water supply.
 - (4) Information on wastewater disposal system.
 - (5) Copies of required Exposure Control Plan, logs and consent forms.
 - (6) Any other information reasonably requested by TCHD.
- (b) License Fee. Simultaneously with the submittal of the Application, the prospective Licensee shall pay the required Body Art Establishment License fee and the pre-opening inspection fee. The License fee shall not be prorated regardless of the time of year it is initially issued.
- (c) Pre-Opening Inspection. Upon receipt and review of the Body Art Establishment License application and receipt of the applicable fees, TCHD will conduct a pre-opening inspection to confirm that the Body Art Establishment complies with these Regulations. In the event any violations or deficiencies are found in the pre-opening inspection, the Body Art Establishment will correct said violations and/or deficiencies and request a re-inspection if required by TCHD, and pay any applicable fees.

(d) Issuance of License. After the pre-opening inspection has been conducted and TCHD has determined that the Body Art Establishment is in compliance with these Regulations, a Body Art Establishment License will be issued to the Licensee of the Body Art Establishment.

10-1004 Inspections.

(a) TCHD staff, after proper identification, shall be permitted to enter any Body Art Establishment in TCHD's Jurisdiction during business hours for the purpose of making inspections and investigating complaints, and to determine compliance with these Regulations. TCHD staff shall only enter a Procedure Area with the client's consent.

(b) In addition to the pre-opening inspection and any applicable remodeling inspection conducted by TCHD, Body Art Establishments will be inspected on an annual basis, and as may otherwise be warranted by complaints or previous violations, as determined by TCHD.

(c) Any Body Art Establishment with an existing License shall be re-inspected upon the completion of any material remodeling of procedure areas in the facility. In such case, TCHD will conduct the re-inspection upon the request of the Licensee of the Body Art Establishment, and the pre-payment of the required inspection fee. The Licensee of the Body Art Establishment will provide any reasonably requested documentation regarding the remodeling of the facility that may be required by TCHD. TCHD approval is required prior to use of any remodeled procedure area.

(d) TCHD staff shall be permitted to examine documents or true copies of documents relative to requirements of these Regulations.

(e) Whenever an inspection of a Body Art Establishment is made by TCHD staff, the findings shall be recorded in writing, and shall describe any violations that may exist. A copy or an electronic copy of the completed report shall be furnished to the Person in Charge by the end of the next workday following conclusion of the inspection.

10-1005 Enforcement. Body Art Establishments in TCHD's Jurisdiction will be subject to the following enforcement provisions.

(a) Immediate Closure. In accordance with the provisions of C.R.S. §§25-1-506, 25-1-509, and 25-1-518, the Health Officer of TCHD has the power and duty to immediately close Body Art Establishments, to forbid gatherings of people therein, and to exercise other control over Body Art Establishments as it may find necessary to protect the public health, to eliminate sources of epidemic and communicable disease, and to investigate and abate nuisances so as to eliminate sources of disease and conditions affecting the public health. Immediate closure will be used when the situation requires emergency action, such as Critical Item Violations, including, but not limited to Sections 5-506, 5-509, 5-510, and 8-801, to protect public health. An immediate closure shall be followed by a hearing before the Hearing Officer within a reasonable time thereafter, where the

Licensee shall have an opportunity to be heard.

(b) Civil Penalty Assessments.

(1) Notification of Non-Compliance. Unless otherwise provided in these Regulations, or as may be warranted by the applicable violation (i.e. a Critical Item Violation requiring immediate closure), upon completion of an inspection, TCHD shall notify the Licensee in writing of any violations observed in the Body Art Establishment, and provide the Body Art Establishment a reasonable period of time to achieve compliance.

(2) Non-Compliance, Civil Penalty. The Hearing Officer of TCHD, after the request by TCHD staff, and appropriate investigation and hearing in accordance with Section 10-1005(e), may assess a civil penalty for violations of this Regulation, not to exceed \$250 for each day of violation, as specified in C.R.S. §25-4-2102. Each day of a violation shall be considered a separate offense. The Hearing Officer shall consider the degree of danger to the public caused by the violation, the duration of the violation, and whether such Body Art Establishment has committed any similar violations.

(3) Failure to Pay License Fees or Civil Penalty. Failure to pay any license fees or civil penalties assessed by TCHD by the date required shall constitute a separate violation which shall be subject to the assessment of one or more additional civil penalties.

(c) Suspension of License. Licenses issued under the provisions of this Regulation may be suspended temporarily by the Hearing Officer of TCHD for failure of the Licensee to comply with the requirements of this Regulation.

(1) Whenever TCHD seeks to suspend a License, the Licensee shall be notified in writing that an administrative hearing before the Hearing Officer has been scheduled to temporarily suspend the Licensee's License. The hearing shall provide the Licensee with an opportunity to be heard. Following the hearing, the Hearing Officer shall have the discretion to temporarily suspend the License of the Licensee.

(2) Any Licensee whose License has been temporarily suspended may, at any time, make application for reinstatement of the License. Within ten (10) days following receipt of a written request, including a statement signed by the Licensee that specifies that the conditions leading to the suspension have been corrected, and upon payment of any re-inspection fees or outstanding civil penalties, TCHD shall re-inspect the Body Art Establishment or evaluate the documentation provided by the Licensee. If the Licensee is in compliance with the provisions of this Regulation, the License may be reinstated.

(d) License Revocation. For repeated or serious violations of any of the requirements of this Regulation, or for interference with TCHD staff in the performance of their duties,

Licenses may be permanently revoked after a hearing before the Hearing Officer. Before taking such action, the Licensee shall be notified in writing that an administrative hearing before the Hearing Officer has been scheduled to revoke the Licensee's License. The hearing shall provide the Licensee with an opportunity to be heard. Following the hearing, the Hearing Officer shall have the discretion to revoke the License of the Licensee.

(e) Administrative Hearings. The hearings provided for in this Section 10-1005 shall be conducted by the Hearing Officer at a time and place designated in the notice provided by TCHD to the Licensee. A record of the hearing shall be made by the Hearing Officer. Any decision of the Hearing Officer may be oral or written, shall be included in the hearing record, and shall include the findings and conclusions upon the material issues of fact, law, or discretion presented by the hearing record, and the appropriate order, sanction, relief, or denial thereof. It is within the discretion of the Hearing Officer whether to make an immediate decision upon the conclusion of a hearing, or to prepare written findings within a reasonable time after the hearing, not to exceed thirty (30) days. Each written decision by the Hearing Officer shall be served on the Licensee by personal service or by mailing by first-class mail to the last known address of the Licensee, and shall be effective as to such party on the date mailed or such later date as is stated in the decision.

(f) Enforcement Costs. The actual costs incurred by TCHD for enforcement of these Regulations, including reasonable oversight and overhead costs, shall be charged to and payable by the Licensee of a non-compliant Body Art Establishment.

(g) Appeal. Pursuant to C.R.S. §25-1-515(1), any person aggrieved and affected by a decision of the Hearing Officer of TCHD is entitled to judicial review of the decision by filing, in the district court of any county within TCHD's Jurisdiction, an appropriate action requesting the review, to be filed within ninety (90) days after the date of the decision. Any person aggrieved or affected by a decision of the Hearing Officer is further entitled to inspect and copy TCHD's records concerning the matter.

SECTION 11: VARIANCE PROCEDURE

11-1101 Any Body Art Establishment may request a variance from any requirement of these Regulations when such Body Art Establishment believes that the requirement results in an undue economic hardship or when it is believed a standard may not apply to the specific situation.

11-1102 Requests shall be submitted in writing to TCHD and shall include the name and location of the business, the name of the Owner, and the section of the Regulation for which a variance is being requested. Evidence of undue economic hardship should include professional estimates and costs for compliance. If it is believed that a standard may not apply to the specific situation, an explanation shall be included.

11-1103 Any person who requests a variance for the provisions of these regulations shall have the burden of supplying TCHD with information that demonstrates the conditions exist

which warrants the granting of a variance. All doubts shall be resolved in favor of denial.

11-1104 TCHD may grant a variance if:

- (a) Such variance is consistent with the purpose and intent of the act and these Regulations; and
- (b) It is consistent with the protection of the public health; or
- (c) The circumstances of the Body Art Establishment are unique; or
- (d) The cost of compliance is so great that it would threaten economic viability of the Body Art Establishment or the Body Art Establishment would be in grave jeopardy if compliance were enforced; or
- (e) The damage to the Body Art Establishment's economic viability is in fact caused by compliance.

11-1105 A variance shall expire upon a change of circumstances from those supporting the variance or upon a transfer of ownership of the Body Art Establishment.

11-1106 Any Body Art Establishment for which a variance has been denied may appeal such denial by requesting a hearing conducted before the TCHD Hearing Officer.