

CHAPTER XVI. - BODY ART

FOOTNOTE(S):

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Editor's note— Ord. No. NS-517.82, adopted Feb. 26, 2013, amended Ch. XVI in its entirety to read as herein set out. Former Ch. XVI pertained to the same subject matter, consisted of §§ B11-500—B11-507, and derived from Ord. No. NS-517.73, adopted Apr. 25, 2006.

ARTICLE 1. - GENERAL PROVISIONS

Sec. B11-500. - Purpose and scope.

Pursuant to the authority of The Safe Body Art Act (Health and Safety Code Section 119300 et seq.), the purpose of this chapter is to protect public health, welfare and safety within the County of Santa Clara by establishing local requirements for the regulation of body art practitioners, body art facilities, and body art facility owners. The regulations established in this chapter supplement and expand upon those in The Safe Body Art Act. The regulations of The Safe Body Art Act shall control should any regulation contained in this chapter be found by a court of competent jurisdiction to be in direct conflict with The Safe Body Act.

It shall be the duty of the Director of Environmental Health as Deputy Health Officer to enforce the provisions of this chapter and the provisions of The Safe Body Art Act throughout both the incorporated and unincorporated areas of the County of Santa Clara.

(Ord. No. NS-517.82, § 1, 2-26-13)

Sec. B11-501. - Definitions.

In addition to the definitions in Chapter I of this Division and The Safe Body Art Act, the following terms are defined for the purposes of this chapter:

- (a) *Aftercare* means written and oral instructions (sometimes called "postprocedure instructions") given to the client, specific to the body piercing, permanent cosmetic, or tattoo procedure(s) rendered, on caring for the body piercing or tattoo and surrounding tissues.
- (b) *Antimicrobial* means agents that disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.
- (c) *Autoclave* means a container (sometimes called a "steam sterilizer") specifically made for sterilizing instruments or other materials by superheated steam (at least 250 degrees Fahrenheit) under pressure for a specified period of time to insure sterilization of all contents.
- (d) *Bodily fluids* means any fluid in the body including blood, urine, saliva, sputum, tears, semen, milk, or vaginal secretions. Blood includes human blood, human blood components, and products made from human blood. Blood may be released from the body when the skin of any human surfaces including, but not limited to, the lip, tongue, mouth or nose, is punctured, torn, cut, or abraded.
- (e) *Cleaning area* means a room or a designated portion of a room (sometimes called a decontamination and sterilization area) that is used to clean and sterilize reusable equipment and devices that are used for the practice of body art.
- (f) *Client* means any individual who inquires about receiving, makes an appointment to receive, or receives body art from a practitioner as defined in The Safe Body Art Act.
- (g) *Contaminated* means the presence or reasonably anticipated presence of blood, body fluid or other potentially infectious materials in or on the surface of an item.

- (h) *Contaminated waste* means any contaminated material used in the application of body art that is to be disposed.
- (i) *DEH* means the Department of Environmental Health, County of Santa Clara as the local enforcement agency per Health and Safety Code Section 119300.
- (j) *Director* means the Director of Environmental Health, County of Santa Clara.
- (k) *Handwashing* means compliance with the following process:
 - (1) Wet hands with warm running water.
 - (2) Apply soap (antimicrobial liquid soap in a wall-mounted pump dispenser) and thoroughly distribute over hands.
 - (3) Rub hands together vigorously for at least 20 seconds, covering all surfaces of the hands and fingers, paying special attention to the thumbs, backs of the fingers, backs of the hands, and beneath the fingernails.
 - (4) Rinse hands thoroughly to remove residual soap.
 - (5) Dry hands with single-use fold disposable paper towels or warm-air drying. If paper towels are used, they shall be dispensed from holders that require the user to remove them one at a time.
 - (6) Use the towel to turn off the taps or use elbow/foot operated taps.
- (l) *Infection prevention and control plan* means a written plan applicable to all those who are employed by a facility owner or operator of a body art facility describing how the applicable requirements of this chapter and The Safe Body Art Act will be implemented. It is designed to eliminate or minimize employee and client exposure to bloodborne pathogens and other communicable diseases.
- (m) *Instrument* means body art equipment or implement (sometimes called a "nonmedical application device") that comes into contact with blood or non-intact skin. Such equipment includes, but is not limited to, needles, needle bars, needle tubes, forceps, hemostats, tweezers, or other implements used to insert pigment or pierce the human body for the intended purpose of making a tattoo or a permanent hole. These instruments shall be sterile before use on clients. Equipment also includes studs, hoops, rings or other decorative jewelry.
- (n) *Piercing device* means any DEH approved instrument that is used to create an opening in the human body for the purpose of inserting jewelry or other decoration.
- (o) *Person* means any individual, firm, or corporation.
- (p) *Pre-sterilized* means instruments and procedure set-ups that are sold individually packaged and processed to render them free from all microorganisms. Each pack shall have a sterilization lot number from the purchasing facility and a date before which the instruments shall be used.
- (q) *Remodel* means any change to the current body art establishment requiring either a building or trades permit for the work to proceed. "Remodel" does not include changes to the front desk area, waiting area, painting, wallpapering, or carpeting, even if a permit is otherwise required. Adding a new workstation, plumbing changes, or expanding into an adjacent space to add workstations are examples of remodeling. "Remodeling" also means any changes to an establishment plan previously submitted to DEH.
- (r) *Sanitation* means effective microbicidal treatment of clean equipment surfaces by a process that has been approved by the Director as being effective in destroying pathogens.
- (s) *Sharps container* means a rigid puncture resistant commercial container that, when sealed, is leak resistant and cannot be reopened without great difficulty. Such containers shall be designed and constructed specifically for the proper containment of sharps waste.

- (t) *Sharps waste* means any device or instrument having acute rigid corners, edges, or protuberances capable of cutting or piercing the skin, that has been used in the performance of body art and has not been disinfected or sterilized following use including, but not limited to, all of the following:
 - (1) Tattooing needles and needle bars.
 - (2) Disposable piercing needles.
 - (3) Disposable razors.
- (u) *Third-party certification* means written confirmation from an independent organization that is not affiliated with the equipment manufacturer that will evaluate the equipment for the purposes of determining whether the equipment meets the requirements of Health and Safety Code Section 119311(i).
- (v) *Workstation* means an area within a procedure area as defined by The Body Art Act that is set up for the application of body art and is an area with unimpeded access to a hand sink.

(Ord. No. NS-517.82, § 1, 2-26-13)

ARTICLE 2. - RESTRICTIONS ON THE PERFORMANCE OF BODY ART

FOOTNOTE(S):

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Editor's note— Sec. 2 of Ord. No. NS-517.82, adopted Feb. 26, 2013, enacted provisions to be designated as §§ B11-510—B11-512. Inasmuch as there already exist sections with those designations, said provisions have been redesignated as §§ B11-502—B11-504. Original ordinance designations have been maintained in the history notes following each section.

Sec. B11-502. - General restrictions.

The following local general restrictions are in addition to those required by The Safe Body Art Act.

- (a) Persons receiving tattooing, branding and/or permanent cosmetics shall be at least 18 years of age. This shall not restrict the activities of a physician and/or surgeon licensed under Chapter 5 of Division 2 of the Business and Professions Code.
- (b) Persons under the age of 18 shall not receive body piercing unless the body piercing is performed in the presence of the person's parent or legal guardian following signed written consent of that parent or legal guardian.
 - (1) This restriction shall not apply to emancipated minors.
 - (2) Nipple and genital piercing is prohibited on minors regardless of parental or legal guardian consent.
- (c) Body art shall not be performed on skin that has rash, pimples, evidence of infection, open lesions, moles, sunburn, past history of herpes infections (also known as cold sores or fever blisters), or manifests any evidence of unhealthy conditions without clearance by a physician and/or surgeon licensed under Chapter 5 of Division 2 of the Business and Professions Code.
- (d) Body art shall not be performed on a person who has a medical condition requiring physician-prescribed antibiotic therapy before that person may undergo any invasive procedure (e.g. dental work, Body Art) without clearance from a physician treating that person.
- (e) Body art shall not be performed on any person who is reasonably suspected or appears to be impaired by drugs or alcohol or who is incapable of providing informed consent or following aftercare instructions.

(Ord. No. NS-517.82, § 2(B11-510), 2-26-13)

Sec. B11-503. - Body art disclosure statements, client health history, and informed consent.

The following local requirements are in addition to those required by The Safe Body Art Act.

- (a) Prior to the performance of body art, a client must provide documentation such as a government issued driver's license, passport, original birth certificate or school identification card to the practitioner or facility owner or operator to verify the client's age. The practitioner, facility owner or operator shall indicate on the client consent form the type of documentation received by the client and shall verify by signature that all information provided by the client is, to the practitioner's or facility owner's or operator's knowledge, correct. The facility shall retain an original copy of the form used to verify the client's age and shall provide a copy of the form to the client, if requested. Copies shall be retained by the facility for at least three years.
- (b) Aftercare instructions shall be reviewed with the client prior to performing the body art. Aftercare instruction shall consist of verbal and written instructions concerning proper care of the affected skin and area. Instructions shall specify:
 - (1) Responsibilities and care following the body art procedure(s).
 - (2) Possible side effects specific to the type of procedure(s).
 - (3) Physical restrictions with an activity time line.
 - (4) Signs and symptoms of local or general infection.
 - (5) Instructions to call a physician if any of the addressed signs and symptoms appears or for any other reason related to the body art procedure.
 - (6) If physician care is required by the client, instruct the client to notify the body art facility and practitioner of the problem and resolution by a physician or clinic. This information shall be placed in the client's file.
- (c) Any person engaging in the practice of body art or any person owning or operating a facility where body art is performed shall show to DEH upon request evidence of The Body Art Act-compliant and DEH-approved client consent forms, client history forms and aftercare instructions which have been signed by the client and practitioner prior to body art application.

(Ord. No. NS-517.82, § 2(B11-511), 2-26-13)

Sec. B11-504. - Facility owner responsibilities.

In addition to complying with permit requirements in this chapter and The Safe Body Art Act, a body art facility owner shall:

- (a) Require and ensure that all individuals within the facility practicing body art are registered and permitted and are in compliance with all health, safety, sanitation and sterilization standards of this chapter and The Safe Body Art Act.
- (b) Maintain a current list of practitioners providing body art at the facility for review by DEH representative during inspections.
- (c) Notify DEH within 30 days when a practitioner leaves or a new practitioner starts working at the facility.

(Ord. No. NS-517.82, § 2(B11-512), 2-26-13)

ARTICLE 3. - REGISTRATION AND PERMITS

FOOTNOTE(S):

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Editor's note— Sec. 3 of Ord. No. NS-517.82, adopted Feb. 26, 2013, enacted provisions to be designated as §§ B11-520—B11-527. Inasmuch as there already exist sections with those designations, said provisions have been redesignated as §§ B11-505—B11-507.5. Original ordinance designations have been maintained in the history notes following each section.

Sec. B11-505. - Practitioner registration.

Any person engaging in the practice of body art shall register with DEH, obtain a practitioner registration card from DEH, and pay annual fees as established by resolution of the Board of Supervisors. Registration shall be made on forms provided by the Director. The registration requirement is in addition to any permit requirement.

(Ord. No. NS-517.82, § 3(B11-520), 2-26-13)

Sec. B11-506. - Practitioner permits.

Any person engaging in the practice of body art shall obtain a practitioner permit from DEH and pay an annual fee established by resolution of the Board of Supervisors. The practitioner's permit or a copy thereof shall be on display at the practitioner's work station or place of business. No person whose practitioner's registration or permit has been suspended or revoked shall continue the practice of body art, unless and until, in the case of suspension, the Director has reinstated the registration and/or permit. If the registration or permit is suspended or revoked, the registration and permit shall be surrendered to the Director upon demand. Practitioners may only operate at a facility that is approved and permitted by DEH.

At the discretion of DEH, practitioner registrations and permits may not be required for those operating under Section 119306(d) of The Safe Body Art Act. Practitioners shall keep a log or provide other evidence to demonstrate compliance with that section. Failure to demonstrate compliance to the satisfaction of DEH shall subject practitioners to local registration and permitting requirements.

(Ord. No. NS-517.82, § 3(B11-521), 2-26-13)

Sec. B11-507. - Facility permits.

Any person owning or operating a body art facility shall obtain a facility permit from DEH and pay an annual facility permit fee established by resolution of the Board of Supervisors. The facility permit shall be on display at the facility at all times. No person whose facility permit has been suspended or revoked shall continue to allow the practice of body art in the facility, unless and until, in the case of suspension, the Director has reinstated the facility permit. If the facility permit is suspended or revoked, the permit shall be surrendered to the Director upon demand.

(Ord. No. NS-517.82, § 3(B11-522), 2-26-13)

Sec. B11-507.1. - Applicant requirements.

- (a) Prior to the issuance of a registration card or a permit, each applicant shall meet minimum registration and permitting requirements as specified in The Safe Body Art Act, Health and Safety Code Section 119300 et seq., as well as the following local requirements:
 - (1) All registration and permit applicants shall apply with DEH using a form obtained from DEH that includes at a minimum the following: applicant's name, date of birth, mailing address, and all business addresses and business phone numbers within DEH's jurisdiction at which the applicant will perform any activity regulated by these regulations. Applicants shall also provide a current copy of state issued photo identification at the time of application.
 - (2) Self-certification that:
 - (i) The registrant has knowledge of, and commitment to meet state law and relevant local regulations pertaining to body art safety, and

- (ii) The registrant has acquired adequate knowledge, experience and training to perform body art, or
 - (iii) The registrant is training under the supervision of a locally registered and permitted practitioner in a body art facility that is permitted by DEH.
- (b) In accordance with The Safe Body Art Act, Health and Safety Code Section 119312(f), a person proposing to construct a body art facility, practice site or mobile practice site, other than a temporary body art event booth, shall submit plans to DEH as prescribed in this chapter, B11-507.7 through B11-507.13. The plans shall be approved in advance of the issuance of a building, plumbing, or electrical permit. All required corrections shall be made and the body art facility approved to open by DEH before body art can be performed in the facility. Any construction or remodel fees shall be paid prior to plan review and approval.

(Ord. No. NS-517.82, § 3(B11-523), 2-26-13)

Sec. B11-507.2. - Temporary facility permits.

In addition to The Safe Body Art Act, Health and Safety Code Section 119300 et seq., the following temporary facility permit requirements shall apply.

- (a) Temporary facility permit(s) may be issued for body art services provided outside of the physical site of a DEH permitted facility for the purposes of product demonstration, industry trade shows, educational reasons, or other DEH approved event. A separate temporary facility permit is required for each demonstration booth, or every 100 square feet of booth space for booths larger than 100 square feet.
- (b) Temporary facility permits will not be issued unless:
 - (1) Application for the temporary facility permit, which includes all required information and documentation shall be submitted for review by DEH at least 30 days prior to the event.
 - (2) The applicant has paid all required fees.
- (c) Each temporary permit shall be posted in a prominent and conspicuous place within each temporary facility so clients can readily observe it.

(Ord. No. NS-517.82, § 3(B11-524), 2-26-13)

Sec. B11-507.3. - Temporary event sponsor permits.

In addition to any temporary facility permit(s), the event sponsor shall obtain a temporary event sponsor permit from DEH and pay a temporary event sponsor fee established by resolution of the Board of Supervisors in accordance with The Safe Body Art Act, Health and Safety Code Section 119318(a).

The event sponsor shall not allow a body art practitioner to perform body art procedures at the event if the body art practitioner does not possess a valid Body Art Practitioner Registration issued by an enforcement agency authorized by The Safe Body Art Act.

(Ord. No. NS-517.82, § 3(B11-525), 2-26-13)

Sec. B11-507.4. - Mechanical Stud and Clasp Ear Piercing (MSCEP) registration.

MSCEP notification shall be in accordance with Health and Safety Code 119325, et seq. Fees shall be established by resolution of the Board of Supervisors.

(Ord. No. NS-517.82, § 3(B11-526), 2-26-13)

Sec. B11-507.5. - Mobile facility permits.

Any person operating a vehicle or other mobile facility in accordance with Health and Safety Code Section 119316 where body art is performed shall obtain a mobile facility permit from DEH and pay an annual mobile facility fee established by resolution of the Board of Supervisors. The mobile facility permit

shall be on display in the mobile facility at all times. No person whose mobile facility permit has been suspended or revoked shall continue to allow the practice of body art in the mobile facility, unless and until, in the case of suspension, the Director has reinstated the mobile facility permit. If the mobile facility permit is suspended or revoked, the permit shall be surrendered to the Director upon demand. Mobile facility permits shall only be issued to those mobile units that meet the requirements of Section B11-507.9.

Temporary mobile facility permits will only be issued to operators and practitioners that can provide sufficient evidence to demonstrate compliance with the 7 day in 90 day time limits described in Health and Safety Code Section 119316. Failure to demonstrate compliance to the satisfaction of DEH shall subject the mobile facility to temporary facility permitting requirements of Article 5 of The Safe Body Art Act and sections B11-507.2 and B11-507.3 of this chapter.

(Ord. No. NS-517.82, § 3(B11-527), 2-26-13)

ARTICLE 4. - PRACTITIONER REQUIREMENTS

FOOTNOTE(S):

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Editor's note— Sec. 4 of Ord. No. NS-517.82, adopted Feb. 26, 2013, enacted provisions to be designated as § B11-530. Inasmuch as there already exist a section with that designation, said provisions have been redesignated as § B11-507.6. Original ordinance designation has been maintained in the history notes following each section.

Sec. B11-507.6. - Practitioner requirements.

The following local practitioner requirements are in addition to those required by The Safe Body Art Act.

(a) *General body art practices and procedures.*

- (1) Non-disposable instruments that are contaminated shall be immersed in a disinfectant solution in the cleaning area prior to cleaning and sterilizing.
- (2) After sterilization, the packaged instruments shall be stored in a clean dry cabinet or other tightly covered container reserved and labeled for storage of sterile instruments.
- (3) Wearing new clean disposable examination gloves, the body art practitioner shall use proper technique to assemble, without contamination, all instruments and supplies as follows:
 - a. Sterilized instruments shall remain in sterile packages until opened in front of the client.
 - b. A pierced, torn or contaminated glove shall be properly removed, both gloves discarded and replaced by new gloves.
 - c. Gloves shall be discarded after completion of each procedure on an individual client, and hands washed prior to donning the next pair of gloves.
 - d. Under no circumstances shall a single pair of gloves be used on more than one individual.
 - e. Use of disposable examination gloves does not preclude or substitute for hand washing procedures.
- (4) Immediately, before any procedure is begun, the workstation including the instrument tray, shall be wiped down with a disinfectant. The procedure tray shall then be covered with a single-use cover, such as an absorbent pad. Paper towels, plastic wrap, waxed paper or

aluminum foil shall not be used as the single-use tray cover. All instruments and supplies needed for the procedure shall then be arranged on the single-use tray cover. When the procedure is completed and after the instruments have been removed, the tray cover shall be discarded into a lidded trash receptacle which is lined with a plastic bag for disposal at the end of each day or more frequently as necessary.

- (5) The workstation and client chair/table shall be wiped down with a disinfectant using a single use paper towel after each client leaves the workstation.
- (6) As appropriate for the body art procedure or task, a practitioner may wear a single-use and disposable apron, bib, lap pad or other personal protective equipment which has been stored in a clean, closed cabinet or container. A clean, new, single-use and disposable item shall be worn for each client. Each used disposable item shall be placed into a lidded trash receptacle which is lined with a plastic bag for disposal at the end of each day or more frequently as necessary. Re-usable linens and protective equipment may only be used upon approval by DEH. Such approval shall require specific written authorization based on procedures submitted to the satisfaction of DEH.

(b) *Tattoo procedures and practices.*

- (1) A clip cord sleeve and barrier film shall be used over exposed electrical cords or other cleaning and disinfection methods demonstrated to prevent contamination.
- (2) When a workstation rinse cup is used alone, the cup and solution shall be changed after each client.
- (3) If spray bottles are used to dispense liquids, the liquid shall be sprayed onto a single-use wipe rather than directly onto the client.
- (4) Single use ointment tubes, applicators and supplies shall be properly discarded after each tattoo application.
- (5) The use of hectographic or single-service tissue stencils shall be required for applying a tattoo outline to the skin. The use of acetate or other multiuse stencils is prohibited.
- (6) When the design is drawn free hand, non-toxic markers or other devices shall be used and discarded after each use.
- (7) Stencils shall be applied with antimicrobial soap or some other approved product dispensed from a container in a manner that does not contaminate the unused portion.
- (8) Tattooed areas shall be covered with ointment that is held in place with suitable non-stick sterile pads.

(c) *Body piercing procedures and practices.*

- (1) All piercing needles shall be single use, sterilized, and disposable. Each piercing needle shall be disposed of into a sharps container immediately after use.
- (2) All non-sterilized implements such as calipers shall be nonporous and disinfected after each use with an appropriate disinfectant.
- (3) For new or initial piercing, the use of previously worn jewelry is prohibited.

(d) *Permanent cosmetics procedures and practices.*

- (1) If a manual device is used, it shall be single use and disposable. The device shall be sterilized before use and discarded into a sharps container at the end of each procedure.
- (2) The use of some rotary pens (also called cosmetic machines) is permitted. Any rotary pen that uses a sponge at the opening of the chamber to stop the pigment or body fluids from getting into the machine or is designed in a manner that does not allow it to be properly cleaned and sterilized is prohibited.

- (3) Only rotary machines or other instruments that are engineered to prevent cross contamination through the use of detachable, disposable, components that can be autoclaved shall be used. The practitioner shall submit a third-party certification indicating the equipment meets design criteria that prevents cross contamination at the request of DEH. If such certification cannot be provided, the practitioner shall cease utilizing the equipment upon notification by DEH.
- (4) All disposable items such as cotton balls, Q-tips, tissues, and water cups that have come in contact with the procedure table, chair, or workstation shall be discarded into a lidded trash receptacle lined with a plastic bag and removed at the end of the procedure, if full, or end of day. After the procedure, a thin coat of healing ointment such as sterile petroleum jelly may be applied using a sterile Q-tip, cotton ball or applicator that shall be discarded into the trash after use.

(Ord. No. NS-517.82, § 4(B11-530), 2-26-13)

ARTICLE 5. - BODY ART FACILITIES

FOOTNOTE(S):

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Editor's note— Sec. 5 of Ord. No. NS-517.82, adopted Feb. 26, 2013, enacted provisions to be designated as §§ B11-540—B11-546. Inasmuch as there already exist sections with those designations, said provisions have been redesignated as §§ B11-507.7—B11-507.13. Original ordinance designations have been maintained in the history notes following each section.

Sec. B11-507.7. - Permanent facility requirements.

The following local requirements for permanent body art facilities are in addition to those required by The Safe Body Art Act.

- (a) Every area including, but not limited to workstation(s), cleaning area(s), instrument storage area(s), restroom(s), walls and floors shall be constructed and maintained to an acceptable manner so as to provide a durable, smooth, nonabsorbent surface that is easily washable using a disinfectant to clean and disinfect any surface contaminated with bodily fluids. Concrete blocks or other masonry used in wall construction shall be covered to be made smooth and sealed for a non-absorbent washable surface.
- (b) Adequate toilet facilities in accordance with the specifications of the Uniform Plumbing Code, local building codes and any other local ordinances shall be provided. This includes toilet paper. A hand-washing sink shall be located inside the restroom and shall be supplied with antimicrobial liquid hand soap in a wall-mounted pump dispenser and single use paper towels or other approved hand drying device.
- (c) Hand-washing sinks shall be located in each workstation. Hand-washing sinks shall be supplied with wall mounted antimicrobial liquid hand soap and single use paper towels from sanitary dispensers. If there are two or more workstations within a room, all may share the hand-washing sink. A workstation in a separate room shall include a hand washing sink. There must be unimpeded access to a hand-washing sink at all times.
- (d) Potable hot and cold running water shall be provided to all hand washing sinks and cleaning area sinks required in the facility. Hot water supplied to each required sink shall be at least 105° Fahrenheit (F).
- (e) The premises shall be constructed and maintained in a state of good repair at all times to prevent insect and rodent infestation.

- (f) The premises shall be well ventilated and be provided with an artificial light source equivalent to at least 20 foot-candles.
- (g) At least 50 foot-candles of artificial light equivalent shall be provided at the level where the body art procedure is being performed.
- (h) All surfaces, including, but not limited to, counters, cabinets, tables, equipment, chairs, recliners, shelving, and cabinets in the service areas and cleaning room shall be made of smooth non-absorbent materials that can be easily cleaned using a disinfectant liquid to clean and disinfect any surface contaminated with bodily fluids.
- (i) The cleaning room or area shall be separated from any other area in the facility, by a room wall or other barrier, such as a screen, extending from the floor to a minimum height of eight feet. The cleaning room or area shall have a separate sink reserved only for instrument disinfectant activities. The cleaning room or area shall have an approved ultrasonic cleaning unit and an autoclave unless only one-time use pre-sterilized instruments are utilized. The ultrasonic cleaning unit and autoclave shall be separated by a minimum distance of 36 inches from each other.
- (j) All sinks shall be permanently plumbed and meet local and state building and plumbing codes. The facility water supply shall be potable from an approved source.
- (k) Sewage, including liquid wastes, shall be disposed of in a public sewer system or, in absence thereof, in a manner approved by DEH.
- (l) Any new or remodeled facility shall obtain the appropriate planning and building permits from the local building authority.
- (m) There shall be no less than 45 square feet of floor space for each procedure area. DEH may approve less floor space on a site-specific basis with appropriate justification.
- (n) The procedure area(s) shall be separated from retail sales area or any other area that may cause potential cross-contamination of work surfaces.
- (o) Body art activities shall be separated from dust and aerosol generating activities (e.g., nail and hair activities) by a solid barrier in such a manner as to prevent contact with irritants, including but not limited to, hair spray, nail dust, or any other contaminant. An alternative method of compliance that adequately controls irritants may be submitted to and approved by DEH.

(Ord. No. NS-517.82, § 5(B11-540), 2-26-13)

Sec. B11-507.8. - Temporary facility requirements.

Temporary facilities include those for educational, convention purposes or other DEH approved event. To the extent possible, they shall conform to Section B11-507.7 of this chapter and to The Safe Body Art Act. In addition to Chapter 7 of Part 15 of Division 104 of the Health and Safety Code, The Safe Body Art Act, Sections 119317 through 119318, the following local requirements are added to temporary body art facilities.

- (a) Hand wash facilities shall be located within each work or demonstration area.
- (b) Hand wash facilities shall consist of liquid antimicrobial hand soap, single-use paper towels and potable water dispensed from an insulated container that contains at least five gallons of potable water with a spigot that is raised a minimum of 25 inches off the floor.
- (c) Waste water shall be collected in a bucket that will hold at least seven and one-half gallons of waste water placed on the floor under the spigot. Potable water shall be replenished and wastewater removed as necessary to the sanitary sewer system, or, in the absence thereof, in a manner approved by DEH.
- (d) There shall be at least 50 foot-candles of artificial light equivalent at the level where the procedure is being performed.

- (e) A separate cleaning area shall be provided for use by the practitioners that supply an adequate number of sinks and DEH approved sterilization units for cleaning and steam sterilizing equipment to be used during the event.
- (f) Only autoclave units approved by DEH, cleaned and maintained according to manufacturer's instructions shall be utilized.
- (g) All steam sterilization units used at the event shall have a certificate of a negative spore test on the sterilizer within the last 30 days.
- (h) Nail and hair activities (or other irritant generating activity) at temporary facilities shall be located in demonstration booths away from body art activities at a distance approved by DEH.
- (i) All authorized persons with duties within the cleaning area or procedure area of a temporary body art event shall show proof of current Bloodborne Pathogens Exposure Control Training in accordance with The Safe Body Art Act, Section 119307.
- (j) Temporary body art facilities are exempt from providing a written Infection Prevention and Control Plan.
- (k) Demonstration booths shall be of sufficient size and area to allow for safe and sanitary practices to occur. There shall be no less than 45 square feet of floor space for each procedure area. DEH may approve less floor space on a site-specific basis with appropriate justification.

(Ord. No. NS-517.82, § 5(B11-541), 2-26-13)

Sec. B11-507.9. - Mobile facility requirements.

In addition to Chapter 7 of Part 15 of Division 104 of the Health and Safety Code, The Safe Body Art Act, the following local requirements shall apply.

- (a) An occupiable body art vehicle must have an insignia from the State Department of Housing and Community Development (HCD) on the vehicle. The insignia certifies that the vehicle meets construction, electrical, plumbing and fire safety requirements to assure the health and safety of California purchasers and occupants.
- (b) The California Department of Motor Vehicles' (DMV) occupational licensing requirements apply to these vehicles.
- (c) The vehicle shall be equipped with a sink for the exclusive use of the practitioner for hand washing and preparing clients.
- (d) Hand-washing sinks shall be supplied with liquid antimicrobial hand soap and single use disposable paper towels.
- (e) An adequate supply of, at least, five gallons of warm (at least 105° F) potable water shall be maintained during any body art procedures that are being performed in the vehicle.
- (f) Waste water containers shall be able to hold, at least, seven and one-half gallons of liquid.
- (g) If there is not an on-board restroom, the vehicle shall be operated within 200 feet of an accessible restroom.
- (h) All body art procedures shall be performed inside the vehicle. All surfaces and equipment (chairs, work stations, counters, client chairs or recliners, dispensers) in the procedure area shall be made of smooth, nonabsorbent, non-porous material that can withstand repeated use of disinfectants. Only single-use, pre-packaged, pre-sterilized instruments are allowed.

(Ord. No. NS-517.82, § 5(B11-542), 2-26-13)

Sec. B11-507.10. - Infection prevention and control plan.

In addition to Chapter 7 of Part 15 of Division 104 of the Health and Safety Code, The Safe Body Art Act, Section 119313, the following local requirements shall apply.

- (a) A body art facility shall maintain and follow a written Infection Prevention and Control Plan (IPCP) provided by the owner or established by the practitioners, specifying the procedures to achieve compliance with each applicable requirement of this chapter as well as The Safe Body Art Act.
- (b) All employees and practitioners at the facility shall be trained on the IPCP on at least an annual basis or within 90 days for new employees or practitioners. A log must be kept by the facility owner to document the training for a period of at least three years.
- (c) Temporary facilities are exempt from the provisions of this section.

(Ord. No. NS-517.82, § 5(B11-543), 2-26-13)

Sec. B11-507.11. - Sterilization.

In addition to Chapter 7 of Part 15 of Division 104 of the Health and Safety Code, The Safe Body Art Act, Section 119315, the following local requirements shall apply.

- (a) The cleaning area shall be set up in a manner to provide distinct, separate areas for cleaning equipment and for the handling and storage of sterilized instruments. The cleaning area sink shall be reserved for instrument cleaning only.
- (b) Before being sterilized, all instruments shall be thoroughly cleaned in an ultrasonic cleaner following manufacturer's instructions.
- (c) The ultrasonic equipment used for cleaning instruments shall be operated, cleaned, and maintained in accordance with the manufacturer's specifications.
- (d) Large-capacity ultrasonic cleaning units shall be clearly labeled "biohazardous" and placed away from the sterilizer and workstations.
- (e) After cleaning, non-disposable instruments shall be packaged into sterilization bags with color change indicators or packaged individually in peel-packs with color change indicators. All packages shall be dated and initialed by the preparer. If a sterilized package has been breached or allowed to get wet, the instrument(s) shall be re-packaged and sterilized again before use. For statim steam sterilizers, where sterilization bags or peel packs are not used, instruments to be sterilized shall be placed in a sterilization cartridge. Instruments that have been sterilized in a statim are intended for immediate use.
- (f) A log of sterilization procedures shall be maintained near the sterilizing equipment. The log shall be for each sterilization cycle and include the type of load, quantity of load, temperature, pressure and length of sterilizing time. Every log shall be maintained for two years, and shall be made available for inspection upon request of the enforcement officer.

(Ord. No. NS-517.82, § 5(B11-544), 2-26-13)

Sec. B11-507.12. - Standards for health and safety.

In addition to Chapter 7 of Part 15 of Division 104 of the Health and Safety Code, The Safe Body Art Act, the following local requirements shall apply. Standards in this section also apply to all facilities and practitioners including temporary and mobile facilities.

- (a) No one under the age of 18 shall be allowed in a workstation unless accompanied by a parent or legal guardian.
- (b) All areas shall be kept neat, clean and in good repair.
- (c) All surfaces and equipment (chairs, work stations, counters, client chairs or recliners, dispensers) in the procedure area shall be made of smooth, nonabsorbent, non-porous material that can withstand repeated use of disinfectants.
- (d) All facilities shall have the waiting area separated from workstations and the cleaning area. A public restroom shall be available to clients during business hours.

- (e) Pre-packaged, pre-sterilized, instruments or facility sterilized instruments must remain in sterile packages until opened in front of the client immediately prior to the body art procedure.
- (f) An adequately sized waste receptacle shall include a lid and be available in each workstation for the disposal of trash and debris. Containers shall be emptied prior to overfilling.
- (g) Each workstation shall have a commercial sharps container that is rigid, puncture proof, leak proof, and labeled with "Sharps Waste" or the biohazard symbol and the word "Biohazard". These containers shall be used for the disposal of sharp objects that come into contact with skin, or bodily fluids.
- (h) All chemicals shall be properly labeled and stored.
- (i) Pets or other animals shall not be allowed in the body art facility.
 - a. Trained guide or assistance animals as described in the Civil Code Section 54.1 or Chapter 9.5 (Section 7200) of Division 3 of the Business and Professional Code for the disabled and fish in aquariums in the waiting areas are exempted from restriction inside a body art facility or demonstration booth.
- (j) Any body art facility owner or practitioner who suspects, knows, or reasonably should have known, that a body art procedure has transmitted a disease or infection to any person, shall notify DEH within 24 hours. The notification shall be followed by a written report that details the incident and includes corrective actions that will prevent such transmission from reoccurring.

(Ord. No. NS-517.82, § 5(B11-545), 2-26-13)

Sec. B11-507.13. - Sharps and contaminated waste handling.

In addition to Chapter 7 of Part 15 of Division 104 of the Health and Safety Code, The Safe Body Art Act, Section 119314(e)(3), the following local requirements shall apply.

- (a) Wastes generated by body art facilities and practitioners during any body art process shall be classified in two categories for purposes of disposal:
 - (1) Sharps waste means any object that can penetrate the skin including, but not limited to, tattoo needles, permanent cosmetic needles, piercing needles, and razors. The removal and disposal of all sharps waste shall be done by a licensed waste hauler and disposal at a licensed treatment facility, or removal and transportation through a mail back system authorized by the California Department of Public Health in accordance with the California Health and Safety Code, Division 104, Part 14, Section 117600, et seq.
 - a. A sharps container that is ready for disposal or has reached full capacity must be properly disposed within one year.
 - b. A sharps container is considered full when the contents have reached $\frac{3}{4}$ full in the container or reaches the level of the container's designated limit line. All full containers must be securely closed and sealed.
 - (2) Contaminated waste means any contaminated waste other than sharps waste, which includes but is not limited to, gauze, wipes, tissues, unused nonhazardous dyes and inks, and other non-sharps used in Body Art. Contaminated waste shall be placed in plastic bags, securely tied and disposed daily in a refuse container that prevents unauthorized access. This material shall be transported by a licensed solid waste hauler to an approved landfill or transfer station. Contaminated waste excludes hazardous waste that must be properly stored, managed and disposed according to local, state, and federal requirements.
- (b) All body art practitioners and body art facility owners shall keep documentation of proper disposal of sharps waste for a minimum of three years and shall be available upon inspection and/or request by a DEH representative.

(Ord. No. NS-517.82, § 5(B11-546), 2-26-13)

ARTICLE 6. - ENFORCEMENT

FOOTNOTE(S):

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Editor's note— Sec. 6 of Ord. No. NS-517.82, adopted Feb. 26, 2013, enacted provisions to be designated as § B11-550. Inasmuch as there already exists a section with that designation, said provisions have been redesignated as § B11-507.14. Original ordinance designations have been maintained in the history notes following each section.

Sec. B11-507.14. - Penalties and enforcement.

- (a) The penalty and enforcement provisions of Chapter I of this division apply to any violation of this chapter.
- (b) Except as otherwise specifically provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws.
- (c) Payment of a fine or other penalty imposed by DEH or a court does not relieve a practitioner, event sponsor or owner or operator from the requirements of this chapter.
- (d) Fines and penalties may be imposed by DEH against temporary event sponsor for any violation of this division by a practitioner or operator participating in a temporary body art event.
- (e) Penalties and enforcement include those set forth in Health and Safety Code Sections 119319 through 119323. Violations of this division may be enforced utilizing the provisions of The Safe Body Art Act.

(Ord. No. NS-517.82, § 6(B11-550), 2-26-13)