

# Section 19 of the Malden Board of Health Rules and Regulations for Body Art Establishments and Practitioners

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## 1. Purpose

Whereas Body Art is becoming prevalent and popular throughout the Commonwealth; and whereas knowledge and practice of universal precautions, sanitation, personal hygiene, sterilization and aftercare requirements on the part of the practitioner should be demonstrated to prevent the transmission of disease or injury to the client and/or practitioner; now, therefore the Board of Health of the City of Malden passes these rules and regulations for the practice of Body Art in the City of Malden to protect the health, safety and welfare of the public.

## 2. Authority

These regulations are promulgated under the authority granted to the Malden Board of Health under Massachusetts General Law 111, section 31.

Body Piercing means puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a presterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing.

Braiding means the cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

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

Cleaning area means the area in a Body Art Establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of body art.

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

Contaminated Waste means waste as defined in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation part 1910.1030. This includes any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials.

Cosmetic Tattooing, also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, means the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.

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

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

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

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

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

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

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

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

Sanitize means the application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

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

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

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

This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

#### 4. Exemptions

- (A) Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.
- (B) Individuals who pierce only the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations.

#### 5. Restrictions

- (A) No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.
- (B) Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.
- (C) Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.
- (D) No body art shall be performed upon an animal.
- (E) The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called "deep" piercing

- (5) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, where instruments and sharps are assembled and all cleaning areas.
- (6) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected receptacles.
- (7) A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- (8) There shall be a sharps container in each operator area and each cleaning area.
- (9) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment if Board-approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.
- (10) The public water supply entering a body art establishment shall be protected by a testable, reduced pressure back flow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.
- (11) At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leakproof, rodent-resistant containers. Solid waste shall be removed from the premises at least weekly and in accordance with the City of Malden Solid Waste Ordinance and Board of Health Dumpster Regulations.

- (3) Hollow bore needles or needles with cannula shall not be reused.
  - (4) All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
  - (5) Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.
- (C) Sanitation and Sterilization Measures and Procedures
- (1) All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit sold for cleaning purposes under approval of the U.S. Food and Drug Administration and operated in accordance with manufacturer's instructions.
  - (2) After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.
  - (3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
  - (4) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.

- (3) An Emergency Plan, including:
  - (a) a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
  - (b) a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
  - (c) a sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- (4) An occupancy and use permit as issued by the local building official.
- (5) A current establishment permit.
- (6) Each practitioner's permit.

(E) Establishment Recordkeeping

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

- (1) Establishment information, which shall include:
  - (a) establishment name;
  - (b) hours of operation;
  - (c) owner's name and address;
  - (d) a complete description of all body art procedures performed;
  - (e) an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement;
  - (f) A Material Safety Data Sheet, when available, for each ink and dye used by the establishment;
  - (g) copies of waste hauler manifests
  - (h) copies of commercial biological monitoring tests
  - (i) Exposure Incident Report (kept permanently)
  - (j) a copy of these regulations.
- (2) Employee information, which shall include:
  - (a) full legal names and exact duties;
  - (b) date of birth;
  - (c) home address;
  - (d) home /work phone numbers;
  - (e) identification photograph;

- (C) Practitioners who use ear-piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- (D) Health History and Client Informed Consent. Prior to performing a body art procedure on a client, the practitioner shall:
  - (1) Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:
    - (a) history of diabetes;
    - (b) history of hemophilia (bleeding);
    - (c) history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.;
    - (d) history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
    - (e) history of epilepsy, seizures, fainting, or narcolepsy;
    - (f) use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
    - (g) any other conditions such as hepatitis or HIV.
  - (2) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 7(K).
- (E) A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

- (3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
  
- (J) Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
  
- (K) The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:
  - (1) on the proper cleansing of the area which received the body art;
  - (2) to consult a health care provider for:
    - (a) unexpected redness, tenderness or swelling at the site of the body art procedure;
    - (b) any rash;
    - (c) unexpected drainage at or from the site of the body art procedure; or
    - (d) a fever within 24 hours of the body art procedure; and
  
  - (3) of the address, and phone number of the establishment.

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

- (L) Contaminated waste shall be stored, treated and disposed in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waster, State Sanitary Code, Chapter VIII.

- (B) If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate including, but not limited to, suspension, modification or revocation of permit (s).

11. Application for Body Art Establishment Permit

- (A) No person may operate a body art establishment without a valid permit from the Board.
- (B) Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and the Body Art Regulations. The term "application" as used herein shall include the original and renewal applications.
- (C) An establishment permit shall be valid from the date of issuance and for no longer than one year unless revoked sooner by the Board.
- (D) The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
  - (1) Name, address, and telephone number of:
    - (a) the body art establishment;
    - (b) the operator of the establishment; and
    - (c) the body art practitioner(s) working at the establishment;
  - (2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
  - (3) A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
  - (3) A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
  - (4) Exposure Report Plan
  - (5) Such additional information as the Board may reasonably require.

(C) A practitioner permit shall be valid from the date of issuance and shall expire no later than one year from the date of issuance unless revoked sooner by the Board.

(D) Application for a practitioner permit shall include:

- (1) name;
- (2) date of birth;
- (3) residence address;
- (4) mailing address;
- (5) phone number;
- (6) place(s) of employment as a practitioner; and
- (7) training and/or experience as set out in (E) below.

(E) Practitioner Training and Experience

- (1) In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
- (2) Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
  - (a) bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
  - (b) Current certification in First Aid and cardiopulmonary resuscitation (CPR).

Examples of courses approved by the Board include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.

- (3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity.

(G) A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

13. Grounds for Suspension, Denial, Revocation, Modification or Refusal to Renew Permit

- (A) The Board may suspend a permit, deny a permit, revoke a permit, modify a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation, modification or refusal to renew:
- (1) any actions which would indicate that the health or safety of the public would be at risk;
  - (2) fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
  - (3) criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
  - (4) any present or past violation of the Board's regulations governing the practice of body art;
  - (5) practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
  - (6) being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
  - (7) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
  - (8) continuing to practice while his/her permit is lapsed, suspended, or revoked; and

16. Severability

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

17. Fine for Violation

The fine for a violation of any provision of these Rules and Regulations shall be \$100.00 per offense. Each day that a violation continues shall be deemed to be a separate offense.

( 781 ) 397-7049 Application Fee: \$50.00

Permit Fee : \$200.00

**City of Malden Board of Health**

**Application for Permit to Operate as a Body Art Establishment**

Name	_____	Tel. #	_____
Address	_____	Fax #	_____
	_____		

Business Name	_____	Tel. #	_____
Address	_____	Fax #	_____
	_____		

**Provide the Following**

- Driver's License, Passport or other photographic proof of identity and age.
- Exposure Report Plan
- Application for Certificate of Occupancy ( no Body Art Establishment Permits will be issued without proper occupancy ).
- Floor plan of the establishment to scale showing all requirements of Section 19.
- List of Establishment Practitioners with name, address, phone number and permit number if already permitted in Malden.
- Manufacturer, model #, model year and serial number of the autoclave used in the establishment.
- A certificate from a physician stating that the applicant has been examined and found to be free of any contagious or communicable disease.
- A certificate from a physician stating that the applicant has been tested for tuberculosis with negative results.
- A completed C ORI and SORI request form from applicant

*I certify, under the pains and penalties of perjury, that the information provided to the Board of Health is correct. I have received, read, understand and agree to abide by all terms and conditions set forth in Section 19 of the Malden Board of Health Rules and Regulations.*

\_\_\_\_\_  
*Signature of Applicant*

\_\_\_\_\_  
*Date Signed*

**The following must be posted prominently in the Body Art Facility:**

- \* All Permits to Operate as a Body Art Technician.
- \* A Disclosure Statement approved by the Board of Health.
- \* Sign with Board of Health Address and Telephone Number
- \* Emergency Plan
- \* Occupancy Permit

City of Malden Board of Health

Application for Permit to Operate as a Body Art Practitioner

Name \_\_\_\_\_ Tel. # \_\_\_\_\_
Address \_\_\_\_\_ Fax # \_\_\_\_\_

Estab. Name \_\_\_\_\_ Tel. # \_\_\_\_\_
Address \_\_\_\_\_ Fax # \_\_\_\_\_
Owner Name \_\_\_\_\_

Provide the Following

- [ ] Driver's License, Passport or other photographic proof of identity and age.
[ ] Evidence of course completion in Preventing Disease Transmission (American Red Cross, or Association of Professional Body Piercers).
[ ] Evidence of current certification (w/i last 2 years) in First Aid and CPR.
[ ] Proof of completion of a college course in Anatomy and Physiology.
[ ] Proof of one (1) year of licensing in another municipality or state, or one (1) year apprenticeship training as a piercer, two (2) years apprenticeship as a tattooist
[ ] A certificate from a physician stating that the applicant has been examined and found to be free of any contagious or communicable disease.
[ ] A certificate from a physician stating that the applicant has been tested for tuberculosis with negative results.
[ ] Bloodborne Pathogen Training.
[ ] A completed C ORI and SORI request form from applicant.

I certify, under the pains and penalties of perjury, that the information provided to the Board of Health is correct. I have received, read, understand and agree to abide by all terms and conditions set forth in Section 19 of the Malden Board of Health Rules and Regulations.

Signature of Applicant

Date Signed

The following must be posted prominently in the Body Art Facility:

- \* All Permits to Operate as a Body Art Technician.
\* A Disclosure Statement approved by the Board of Health.
\* Sign with Board of Health Address and Telephone number.
\* Occupancy Permit
\* Emergency Plan

COMMONWEALTH OF MASSACHUSETTS  
SEX OFFENDER REGISTRY BOARD

REQUEST FOR SEX OFFENDER REGISTRY INFORMATION

All requests for sex offender information must be made on this form and mailed to the Sex Offender Registry Board, P.O. Box 4547, Salem, MA 01970, along with a self-addressed stamped envelope. The Board will provide a report that includes the following information: whether the person identified is a sex offender with an obligation to register, the offense(s) for which the offender was convicted or adjudicated, and the date(s) of the conviction(s) or adjudication(s). Please be advised that the law only permits the public to receive information on sex offenders required to register and finally classified by the Board as a level 2 (moderate risk) or level 3 (high risk) offender. Therefore, information is not available to the public if the identified individual is a level 1 (low risk) offender or if he/she has not yet been finally classified by the Board. All requests shall be recorded and kept confidential, except to assist or defend in a criminal prosecution.

Requestor's name: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone number: \_\_\_\_\_  
\_\_\_\_\_

I swear under the pains and penalties of perjury that I am the above-named person, at least 18 years of age, and I am requesting information for my own protection, the protection of a child under 18 years of age, or for the protection of another person for whom I have responsibility, care or custody.

Requestor's signature: \_\_\_\_\_ Date: \_\_\_\_\_

I hereby request that the following information be used to determine whether the identified individual is a sex offender required to register in Massachusetts.

Subject's name: \_\_\_\_\_  
Date of birth or approximate age: \_\_\_\_\_  
Address: \_\_\_\_\_  
Personal identifying characteristics:  
Sex: \_\_\_\_\_ Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Hair Color: \_\_\_\_\_  
Other information (e.g. license plate number, parents' names, etc.): \_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*WARNING\*\*\*\*\*

SEX OFFENDER REGISTRY INFORMATION SHALL NOT BE USED TO COMMIT A CRIME OR TO ENGAGE IN ILLEGAL DISCRIMINATION OR HARASSMENT OF AN OFFENDER. ANY PERSON WHO USES INFORMATION DISCLOSED PURSUANT TO M.G.L. C. 6, §§ 178C-178P FOR SUCH PURPOSES SHALL BE PUNISHED BY NOT MORE THAN TWO AND ONE HALF (2 1/2) YEARS IN A HOUSE OF CORRECTION OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1000.00) OR BOTH (M.G.L. C. 6, § 178N). IN ADDITION, ANY PERSON WHO USES REGISTRY INFORMATION TO THREATEN TO COMMIT A CRIME MAY BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS (\$100.00) OR BY IMPRISONMENT FOR NOT MORE THAN SIX (6) MONTHS (M.G.L. C. 275, § 4).