

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Body Art Code
- 2) Code Citation: 77 Ill. Adm. Code 797
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
797.100	New
797.200	New
797.300	New
797.400	New
797.500	New
797.600	New
797.700	New
797.800	New
797.900	New
797.1000	New
797.1100	New
797.1200	New
797.1300	New
797.1400	New
797.1500	New
797.1600	New
797.1700	New
797.1750	New
- 4) Statutory Authority: Implemented and authorized by the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].
- 5) A Complete Description of the Subjects and Issues Involved: The Tattoo and Body Piercing Establishment Registration Act, Public Act 094-1040, was signed by Gov. Rod R. Blagojevich on July 21, 2006. The Act requires the Illinois Department of Public Health or its designee to inspect tattoo and body piercing parlors to ensure compliance with State standards, including health and safety requirements, such as sterilization and sanitation techniques, to receive certification. Facilities will be required to renew their registration every year.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6.

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Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures, in MMWR, July 12, 1991, Vol. 40, No. RR-8.

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
E-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Businesses that engage in the practice of body piercing or tattooing
 - B) Reporting, bookkeeping or other procedures required for compliance: The operator and/or body artist shall report to the Illinois Department of Public Health all infections or diseases resulting from a body art procedure that required medical attention within 24 hours after receiving a report that medical attention was required.

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- C) Types of Professional skills necessary for compliance: Body art establishments must retain proof that body artists employed by the establishment have completed bloodborne pathogen training.

- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

The full text of the Proposed Rules begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD DRUGS AND COSMETICSPART 797
BODY ART CODE

Section	
797.100	Definitions
797.200	Incorporated and Referenced Materials
797.300	General Requirements
797.400	Operational Requirements
797.500	Exemptions
797.600	Public Notification Requirements
797.700	Disclosure of Pre-existing Conditions
797.800	Preparation and Care of the Body Art Area
797.900	Sanitation and Sterilization Procedures
797.1000	Requirements for Single Use Items
797.1100	Requirements for Premises
797.1200	Establishment Certificate of Registration Requirements
797.1300	Body Artist Proficiency Requirements
797.1400	Temporary Certificate of Registration Requirements
797.1500	Enforcement
797.1600	Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration
797.1700	Violations and Fines
797.1750	Administrative Hearings

AUTHORITY: Implementing and authorized by the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

SOURCE: Adopted at 32 Ill. Reg. _____, effective _____.

Section 797.100 Definitions

The following shall be the accepted definitions of the terms used in this Part:

"Act" means Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

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"Aftercare" means oral and written instructions given to the client, specific to the body art procedures rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

"Antiseptic" means an agent that destroys disease-causing microorganisms on human skin or mucosa.

"Apprentice" means an individual who works under the supervision of a body artist and performs body art activities.

"Autoclave" means an apparatus that is registered and listed with the federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

"Body Art" means the practice of physical body adornment, including, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by the Illinois State Medical Board, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include piercing of the outer perimeter or lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.

"Body Artist" means a person who conducts or practices body art activities and/or procedures.

"Body Art Establishment" or "*Establishment*" means a body-piercing operation, a tattooing operation, or a combination of both operations in a multiple-type establishment, whether public or private, temporary or permanent in nature or location, profit or not for profit. (Section 10 of the Act)

"Body Piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature. "*Body piercing*" does not include practices that are considered medical procedures or the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized, single-use stud-and-clasp ear piercing system. (Section 10 of the Act)

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"Certificate of Registration" means written permission by the Department to operate a body art establishment. Approval is given in accordance with this Part and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

"Change of Ownership" means any of the following:

In the case of a body art establishment owned by a corporation, the transfer of the facility by the corporation to another corporation, to a partnership or association, or to a natural person. Transfer of stock in a corporation does not constitute change of ownership.

In the case of a body art establishment owned by a partnership or association, the transfer of the facility by the partnership or association to another partnership or association, to a corporation, or to a natural person. Transfer of interest in the partnership or association or substitution of any or all partners or members of the association does not constitute change of ownership.

In the case of a body art establishment owned by a natural person, the transfer of the facility to any corporation, partnership, association or other natural person, whether or not the owner retains any interest in the facility.

"Clean" or "Cleaning" means the removal of foreign materials from objects, normally accomplished with detergent, water and mechanical action.

"Client" means the person, customer, or patron whose skin will be tattooed or pierced. (Section 10 of the Act)

"Cosmetic Tattooing" (see "Tattooing").

"Dentist" means a person licensed to practice dentistry in this State pursuant to the Illinois Dental Practice Act [225 ILCS 25].

"Department" means the Illinois Department of Public Health or its designated agent.

"Director" means the Director of Public Health or his or her designee. (Section 10 of the Act)

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"Disclosure Warning Statement " means a sign or poster that is provided by the Department that advises the public of the potential health risks of body art services.

"Disinfect" or "Disinfection" means a process that provides an effective concentration of a United States Environmental Protection Agency registered chemical for enough time as specified by the manufacturer to reduce bacterial count, including pathogens, to a safe level (when disease organisms that may be present are destroyed so as to prevent transfer) on equipment surfaces and in toilet and hand washing facilities.

"Ear Piercing" means the puncturing of the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system, following manufacturer's instructions. Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the outer perimeter and lobe of the ear.

"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 procedures of body art.

"Good Hygienic Practices" means practices conducive to maintaining health and preventing disease, especially through cleanliness. Good hygienic practices include, but are not limited to, restrictions on eating, drinking and the use of tobacco products in the establishment; maintaining a high degree of personal cleanliness; hand washing and proper hand washing techniques; use of single-use disposable gloves; preventing employees from contaminating work surfaces; and availability of hand washing facilities and supplies.

"Hand Sink" means a lavatory equipped with hot and cold running water under pressure, tempered by means of a mixing valve or combination faucet, activated by wrist blade or knee control or other hands-free means, used solely for washing hands, arms and other portions of the body.

"Hot Water" means water that attains and maintains the temperature of at least 100 degrees F.

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"Imminent Health Hazard" means any hazard to the public health when the evidence shows that a product or practice creates or may create a public health situation, including, but not limited to, a lack of water or electricity, lack of sterilization, infections that are epidemiologically associated with a body art establishment, or the occurrence of a single case of a life-threatening illness that is epidemiologically associated with a body art establishment.

"Instruments Used for Body Art" means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to body fluids during body art procedures.

"Invasive" means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

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

"Mobile Body Art Establishment" or "Mobile Body Art Unit" means a mobile establishment or unit that is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal.

"Operator" means an individual, partnership, corporation, association, or other entity engaged in the business of owning, managing, or offering services of body piercing or tattooing. (Section 10 of the Act)

"Peel-Packs" means a pouch of plastic or paper designed for use as a packaging material for steam sterilization. The pouch shall allow penetration of steam to allow sterilization and to maintain the sterility of the item after sterilization.

"Person" means any individual, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency of that state, and any legal successor, representative, agent or agency of a person.

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"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches, or a chiropractic physician licensed to treat human ailments without the use of drugs and without operative surgery.

"Potable Water" means water that is safe for human consumption and meets the water quality standards of the Primary Drinking Water Standards (35 Ill. Adm. Code 611).

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

"Regulated Waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 CFR 1910.1030 (Bloodborne Pathogens).

"Sanitation" means the effective bactericidal and veridical treatment of clean equipment surfaces by a process that effectively destroys pathogens. (Section 10 of the Act)

"Sanitization Procedure" means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level.

"Scarification" means to create a design on the skin by means of shallow cuts that are sometimes rubbed with a colorant or irritant to enhance the resulting scar tissue.

"Sharps" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, pre-sterilized single-use needles, scalpel blades, and razor blades.

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"Sharps Disposal Container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and that is labeled with the international biohazard symbol.

"Single Use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups and protective gloves.

"Standard Precautions" means infection prevention and control measures that apply to all patients regardless of diagnosis or presumed infection status (see 77 Ill. Adm. Code 690.1010(a)(7)).

"Sterile" means free of all living organisms, including spores.

"Sterilization" means the use of a physical or chemical process to destroy all living organisms, including spores.

"Sterilize" means to destroy all living organisms including spores. (Section 10 of the Act)

"Sterilizer" means equipment used to sterilize body art devices, equipment and supplies by direct exposure to a selected sterilization agent.

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

"Temporary Body Art Establishment" means any place or premise operating for educational, trade show or product demonstration purposes at a fixed location where a body artist/apprentice performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

"Temporary Certificate of Registration" means a certificate of registration issued by the Department *for educational, trade show, or product demonstration purposes only. The temporary certificate of registration shall be valid for a maximum of 14 calendar days. (Section 20 of the Act)*

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"Ultrasound" means a process for cleaning soiled and/or used instruments before they are sterilized, using the emission of high frequency sound waves.

"Violation" means a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this State, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with this Part.

"Work Station" means an area where body art procedures are performed.

Section 797.200 Incorporated and Referenced Materials

- a) The following materials are incorporated or referenced in this Part:
 - 1) Illinois Statutes and Administrative Rules:
 - A) Criminal Code of 1961 [720 ILCS 5]
 - B) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - C) Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - D) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 - E) Electrologist Licensing Act [225 ILCS 412]
 - F) Acupuncture Practice Act [225 ILCS 2]
 - G) Administrative Review Law [735 ILCS 5/Art. III]
 - 2) Federal Regulations :

Bloodborne Pathogens, federal Office of the Safety and Health Administration (OSHA), 29 CFR 1910.1030(g)(2) (July 2005)
 - 3) Federal Guidelines:

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- A) Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers, in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6
 - B) Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures, in MMWR, July 12, 1991, Vol. 40, No. RR-8
- b) All incorporations by reference of federal regulations and guidelines refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.
 - c) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

Section 797.300 General Requirements

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

- a) Employee information
 - 1) Full names and exact duties;
 - 2) Date of birth;
 - 3) Home address;
 - 4) Home and work telephone numbers;
 - 5) Identification photographs of all body art operators/apprentices;
 - 6) Places of employment as an operator;
 - 7) Training documentation/certificates; and

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- 8) Proof of completion of a bloodborne pathogen training program compliant with Bloodborne Pathogens, OSHA, 29 CFR 1910.1030(g)(2), or equivalent curriculum approved by the Department.
- b) Establishment Information
- 1) Name of Establishment;
 - 2) Hours of Operation;
 - 3) Owner's name and home address;
 - 4) Owner's telephone numbers;
 - 5) A complete description of all body art procedures performed; and
 - 6) A list of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
- c) Emergency Procedures Information
- The owner or operator of a body art establishment shall prepare, maintain and implement an operation procedure that meets the following requirements:
- 1) The operation procedure shall provide for response to the occurrence of any sudden, serious and unexpected sickness or injury that would lead a reasonable person, possessing an average knowledge of health, to believe that the sick or injured person requires urgent or unscheduled medical care.
 - 2) The operation procedure shall include a method to address emergency situations, including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks.
 - 3) The operation procedure shall include procedures to be used when blood, plasma, serum or body fluids, such as semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood, are exposed to:

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- A) mucous membranes, including eye, mouth or other mucous membranes;
 - B) broken or non-intact skin;
 - C) abraded or irritated skin; or
 - D) skin surfaces that are otherwise compromised.
- 4) The operation procedure shall describe methods for obtaining appropriate medical care in the event of such an exposure and designate personnel to be notified in the event of an emergency.
 - 5) The operation procedure must be maintained in the body art establishment in a location accessible to all employees.
- c) The establishment shall also keep on file a copy of this Part.

Section 797.400 Operational Requirements

- a) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current certificate of registration.
- b) A body artist/apprentice shall be a minimum of 18 years of age.
- c) Smoking, eating or drinking is prohibited in the area where body art is performed.
- d) *Body piercing procedures must not be performed, without medical clearance, on skin surfaces where sunburn, rash, acne, infection, open lesions, or other questionable skin lesions exist and must not be performed on any person who is impaired by drugs or alcohol. (Section 27 of Act)*
- e) The body artists/apprentice shall maintain a high degree of personal cleanliness, conform to good hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, body artists/apprentices shall 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.

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- f) In performing body art procedures, the body artist/apprentice shall wear single-use disposable gloves. Gloves shall be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next pair of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- g) If, while performing a body art procedure, the body artist's/apprentice's glove is pierced, torn or otherwise compromised, the procedure in subsection (f) shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see subsection (e)) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- h) Regulated waste that may release liquid blood or body fluids when compressed, or may release dried blood or body fluids when handled, shall be placed in an approved bag marked with the international biohazard symbol. The regulated waste shall then be disposed of by a waste hauler in compliance with 29 CFR 1910.1030. Sharps ready for disposal shall be disposed of in approved sharps disposal containers. Storage of regulated waste on site shall not exceed 30 days, as specified in 29 CFR 1910.1030.
- i) Waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal disposal methods.
- j) No person shall perform any body art procedure upon a person under the age of 18 years that is prohibited by Sections 12-10 through 12-10.2(c) of the Criminal Code of 1961. Nothing in this Section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent. Government issued identification, such as a driver's license or military ID with photo, shall be sufficient to show proof of age. The parent or legal guardian shall sign a consent form in the presence of an operator/body artist.

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The consent form shall indicate that the parent or legal guardian has read and understood the disclosure warning statement required under Section 797.600(c).

- k) Any skin or mucosa surface that is to receive a body art procedure shall be free of rash, irritation or any visible infection.
- l) No body artist/apprentice affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which that person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms.

Section 797.500 Exemptions

The following practices, occupations and persons are exempted from this Part:

- a) *The practice of electrology as defined in the Electrologist Licensing Act [225 ILCS 412] (Section 10 of the Act);*
- b) *The practice of acupuncture as defined in the Acupuncture Practice Act [225 ILCS 2] (Section 10 of the Act);*
- c) *The use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical, or figurative purposes (Section 10 of the Act); and*
- d) Individuals who pierce only the outer perimeter and lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system.

Section 797.600 Public Notification Requirements

- a) Verbal and written public educational information, provided by the Department, shall be offered to all clients prior to receiving body art procedures.
- b) Verbal and written instructions for the aftercare of the body art shall be provided to each client.

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- c) The written instructions shall advise the client to consult a physician or dentist at the first sign of infection. The written instructions shall also contain the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client, and the operator shall retain the original with all other required records for a period of no less than two years. In addition, all establishments shall prominently display a disclosure warning statement, provided by the Department, that advises the public of the potential health risks of body art services.
- d) The certificate of registration holder shall also post in public view the name, address and phone number of the Department.
- e) The operator and/or body artist shall report in writing to the Department all infections or diseases, resulting from a body art procedure, that required medical attention. The written report shall be sent to the Department by mail or facsimile within 24 hours after receiving a report that medical attention was required. The report shall include:
 - 1) The name, address and phone number of the affected individual;
 - 2) The date of the body art procedure;
 - 3) Identification of the body artist/apprentice who performed the service;
 - 4) The name, address and certificate of registration number of the body art establishment involved;
 - 5) The anatomical location, condition and description of the affected site;
 - 6) The name, address and phone number of the affected individual's health care provider;
 - 7) The date that medical attention was sought; and
 - 8) Any other information considered relevant to the situation.

Section 797.700 Disclosure of Pre-existing Conditions

The body artist/apprentice shall verbally request information from all clients as follows:

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"To ensure that your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions. Disclosure does not prevent you from having a body art procedure.

- a) 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 skin sensitivities such as, but not limited to, latex;
- e) History of epilepsy, seizures, fainting or narcolepsy;
- f) Medications used, such as anticoagulants that thin the blood and/or interfere with blood clotting;
- g) Human immunodeficiency virus (HIV);
- h) Hepatitis;
- i) Any other information that would aid us in evaluating your body art healing process."

Section 797.800 Preparation and Care of the Body Art Area

- a) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding the location of the body art procedure shall be washed with liquid soap and water or other antiseptic. If shaving is necessary, single-use disposable razors shall be used. Following shaving, the skin and surrounding area shall be washed with liquid soap and water or other antiseptic. The single-use disposable razor and washing pad shall be discarded after a single use.
- b) If bleeding occurs, all products used to check the flow of blood or to absorb blood shall be single use and shall be disposed of immediately after use in appropriate covered containers. (See definition of "regulated waste" in Section 797.100.)

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Section 797.900 Sanitation and Sterilization Procedures

- a) All non-disposable instruments used for body art shall be cleaned after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, or by following the manufacturer's instructions, to remove blood and tissue residue, and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- b) After cleaning, all non-disposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized (see subsection (c)). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs shall be dated with an expiration date not to exceed six months. If peel-packs are compromised or expired, the instrument shall be removed, repackaged and re-sterilized.
- c) All cleaned non-disposable instruments used for body art shall be sterilized in an autoclave that meets the criteria specified in subsection (h). The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. The operator shall retain on-site a copy of the manufacturer's recommended procedures for the operation of the sterilization unit. If the body art establishment uses only single-use disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- d) After sterilization, the instruments used for body art procedures shall be stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instruments.
- e) All instruments shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and the gloves are not contaminated.
- f) All inks, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Pigment shall be reconstituted using only distilled or sterile water.

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- g) Immediately before a tattoo is applied, the quantity of the ink to be used shall be transferred from the ink bottle and placed into single-use containers. Upon completion of the tattoo, these single-use containers and their contents shall be discarded.
- h) Each certificate of registration holder shall demonstrate, by monthly spore destruction tests, that the autoclave used is capable of attaining sterilization. These tests shall be verified through an independent laboratory. Test records shall be retained on-site by the operator for a period of three years.

Section 797.1000 Requirements for Single-Use Items

- a) Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps disposal containers.
- b) All products applied to the skin, including body art stencils, shall be single-use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied to the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents.

Section 797.1100 Requirements for Premises

- a) All walls, floors, ceilings and procedure surfaces of a body art establishment shall be smooth, free of open holes and cracks, light colored, washable, and in good repair. Walls, floors and ceilings shall be maintained in clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client. The body art establishment shall be maintained in a clean and sanitary condition at all times.
- b) All body art establishments shall be completely separated, by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- c) Effective measures shall be taken by the operator/body artist/apprentice to protect against the presence of insects, vermin and rodents in the establishment. Doors

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shall be self-closing and tight fitting. If windows open, they shall have tight-fitting screens.

- d) Each work station shall be a minimum of 40 square feet of floor space. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains or partitions, at a minimum, shall be available to separate multiple work stations.
- e) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles.
- f) No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and non-procedural areas.
- g) A separate hand sink (see Section 797.100) shall be readily accessible to the operators within the body art establishment. The hand sink shall be supplied with liquid soap and disposable paper towels. One hand sink shall serve no more than six operators/apprentices.
- h) Each body art establishment shall have a minimum of one lavatory facility, excluding any service sinks, and one toilet facility. The lavatory facility shall be equipped with a hand sink, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.
- i) At least one covered waste receptacle shall be provided in each work station, lavatory facility, and toilet facility. Receptacles in the work station shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be cleanable, and kept clean. Waste receptacles shall be kept uncovered during use and covered while not in use.
- j) All instruments and supplies shall be stored in clean, dry, covered containers.
- k) If reusable cloth items are used, they shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

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- l) In addition to complying with all of the requirements of this Part, mobile body art vehicles and body artists/apprentices working from a mobile body art establishment shall also comply with the following requirements:
 - 1) Body art shall be performed only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.
 - 2) Potable water shall be maintained for the mobile body art establishment at all times during operation.
 - 3) All liquid wastes shall be stored in a storage tank with a capacity at least 50 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of in accordance with State and federal laws.
 - 4) A toilet facility, equipped with a hand sink, shall be available within the mobile body art establishment. The hand sink shall be supplied with hot and cold running water, under pressure, to a mixing-type faucet, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. The doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.

Section 797.1200 Establishment Certificate of Registration Requirements

- a) The operator of a body art establishment shall maintain a current certificate of registration from the Department. The owner shall file an application with the Department using an application provided by the Department and shall include all of the following information:
 - 1) *The applicant's name, address, telephone number, and age. To qualify for the certificate of registration, the applicant shall be at least 18 years of age;*
 - 2) *The name, address, and phone number of the establishment;*

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- 3) *The type and year of manufacture of equipment proposed to be used for body art;*
 - 4) A floor plan of the premises, showing the location of required facilities and work stations;
 - 5) *The sterilization and operational procedures to be used by the establishment (Section 15 of the Act);*
 - 6) The total number of work stations located in the establishment. This number shall include all work stations, whether utilized or not.
- b) With each certificate of registration application, the applicant shall submit a \$500 non-refundable fee. The \$500 non-refundable fee shall satisfy the cost of the certificate of registration and the registration of one work station. For each additional work station located in the facility, applicants shall submit, at the time of application, an additional \$50 non-refundable fee.
 - c) Any attempt to obtain a certificate of registration by means of fraud, misrepresentation or concealment is prohibited.
 - d) *The certificate of registration issued by the Department shall be conspicuously displayed within the sight of clients upon entering the establishment.*
 - e) *Registration is valid for a single location and only for the operator named on the certificate. Registration is not transferable. (Section 35 of Act)*
 - f) *In the event of a change of ownership, the new owner must apply for a certificate of registration prior to taking possession of the property. (Section 40 of Act)*

Section 797.1300 Body Artist Proficiency Requirements

- a) The operator shall hire only body artists who have complied with the body artist proficiency requirements of this Part.
- b) No person shall conduct body art procedures without first demonstrating proficiency and knowledge of this Part.
- c) The body artist shall possess knowledge of the following subjects:

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- 1) Anatomy;
 - 2) Infectious disease control, including waste disposal, hand-washing techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques; and
 - 3) Skin diseases, disorders and conditions (including diabetes).
- d) The knowledge required by subsection (c) may be demonstrated by maintaining documentation of completion of "Bloodborne Pathogen Training", OSHA (29 CFR 1910.1030(g)(2)). The Department will approve training/courses provided by professional body art organizations/associations, equipment manufacturers, or the American Red Cross if the courses meet the same objectives and standards as the OSHA course.
- e) A list of all body artists who have complied with this Section and all other provisions of this Part shall be posted in a prominent and conspicuous area of the establishment.

Section 797.1400 Temporary Certificate of Registration Requirements

- a) *A temporary certificate of registration may be issued by the Department for educational, trade show or product demonstration purposes that include body art procedures. The temporary certificate of registration shall be valid for a maximum of 14 calendar days. (Section 20 of Act)*
- b) The establishment shall be contained in a completely enclosed non-mobile facility (e.g., inside a permanent building).
- c) A body artist who wishes to obtain a temporary certificate of registration shall submit a temporary certificate of registration application for review by the Department at least 30 days prior to the event. The application shall specify:
 - 1) Inclusive dates during which the temporary certificate of registration is needed (not to exceed 14 consecutive calendar days per event), without reapplication;

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- 2) Compliance with body artist proficiency requirements as specified in Section 797.1300;
- 3) The address where the temporary certificate of registration will be used.
- d) A temporary certificate of registration shall not be issued unless the applicant has paid a non-refundable fee of \$250.
- e) A temporary certificate of registration shall not be transferable from one place or person to another.
- f) Compliance with all of the requirements of this Part includes, but is not limited to, the following:
 - 1) Conveniently located hand-washing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Alcohol-based single-use hand wipes shall be available in each work station to augment the hand-washing requirements of this Section;
 - 2) A minimum of 40 square feet of floor space shall be provided per work station;
 - 3) There shall be at least 20 foot candles of light at the level where the body art procedure is being performed; and
 - 4) The establishment shall provide instrument sterilizing equipment in compliance with this Part, on which a spore test has been performed 30 or fewer days prior to the date of the event, or only single-use prepackaged sterilized equipment obtained from reputable suppliers or manufacturers shall be allowed.
- g) A temporary certificate of registration issued by the Department is required prior to the performance of any body art procedures.
- h) Body art procedures shall not be performed before the Department has inspected the location identified on the temporary certificate of registration application.

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- i) If the holder of a temporary certificate of registration fails to comply with the requirements of the Act or this Part, the Department shall suspend the temporary certificate of registration.
- j) The temporary certificate of registration and the disclosure warning statement provided by the Department (see Section 797.600(c)) shall be prominently posted.

Section 797.1500 Enforcement

- a) The Department shall inspect any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for a certification of registration under the Act and this Part, as often as necessary to ensure compliance with this Part. The initial inspection of a mobile body art establishment shall take place at a location identified by the Department. Additional inspections may be performed at any event where the mobile body art establishment is scheduled to operate.
- b) If the Department is denied access to any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for certification of registration under the Act and this Part, the Department shall request intervention of local, county or State law enforcement agencies to seek a court order or warrant to investigate and enter the establishment, mobile body art establishment/unit, or any other place. Any person or entity preventing the Department from carrying out its duties under the Act or this Part shall be guilty of a violation of the Act and shall be subject to penalties.
- c) If the Department suspects that a communicable disease is or may be transmitted by an operator/apprentice, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions and practices or other imminent health hazard that may adversely affect the health of the public, upon written notice to the owner or operator, the Department shall do any or all of the following:
 - 1) Issue an order excluding any or all operators/apprentices from the body art establishment who are responsible, or appear to be responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health;

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- 2) Issue an order to immediately suspend the certificate of registration of the establishment until the Department determines that there is no further risk to the public health. The order shall state the cause for the action.

Section 797.1600 Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration

A certificate of registration may be denied, suspended, or revoked, or the renewal of a certificate of registration may be denied, for any of the following reasons:

- a) Any single violation of the Act or this Part;
- b) *Conviction of an applicant or registrant of an offense arising from false, fraudulent, deceptive or misleading advertising. The record of conviction or a certified copy shall be conclusive evidence of the conviction;*
- c) *Revocation of a certificate of registration during the previous 5 years or surrender or expiration of the certificate of registration during the pendency of action by the Department to revoke or suspend the certificate of registration during the previous 5 years, if, before the certificate of registration was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant, was a controlling owner of the prior certificate of registration. (Section 45 of the Act)*

Section 797.1700 Violations and Fines

- a) In addition to any other action authorized by the Act or this Part, the Department may assess fines, in addition to denying, suspending and revoking certificates of registration, against a person for any violation of any provision of the Act or this Part.
- b) *A fine not to exceed \$1,000 per day for each day the registrant remains in violation shall be issued for any violation of the Act or this Part. (Section 80 of Act)*
- c) A violation is a failure to adhere to any of the provisions of the Act or this Part. A violation shall also include any of the following:

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- 1) Failure to abide by any stop operation or stop use order issued under this Part;
- 2) Failure to notify the Department of any incident, accident or public health emergency involving any equipment or operator, as required in Section 797.600;
- 3) Failure to allow the Department to perform inspections and investigations in accordance with Section 30 of the Act and Section 797.1500;
- 4) Use of autoclave or body-piercing or puncturing equipment in a manner inconsistent with its labeling or directions;
- 5) Performing a body art procedure in a faulty, careless or negligent manner;
- 6) Performing a body art procedure in violation of the certificate of registration requirements of Section 15 of the Act;
- 7) Performing a body art procedure in violation of an order issued by the Department;
- 8) Failure to use methods or materials suitable for body art;
- 9) Performing a body art procedure on a person under the age of 18 years, in violation of the Criminal Code of 1961;
- 10) Allowing a certificate of registration to be used by another person;
- 11) Aiding or abetting a person in evading any provision of the Act;
- 12) Failure to comply with the operator proficiency requirements of Section 797.1300;
- 13) Failure to comply with waste removal requirements of Section 797.400;
- 14) Failure to maintain client records as required by Section 797.700;
- 15) Failure to maintain premises in sanitary condition as required by Section 797.1100;

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- 16) Failure to establish and maintain records of body art procedures in accordance with Section 797.700;
- 17) Failure to renew a certificate of registration in accordance with Section 35 of the Act;
- 18) Failure to notify the Department of a change in business ownership in accordance with Section 40 of the Act and Section 797.1200 of this Part;
- 19) Failure to provide information to the Department upon request in accordance with Section 55 of the Act;
- 20) Failure to display or provide a current permit, in accordance with Section 35 of the Act.

Section 797.1750 Administrative Hearings

- a) All hearings shall be conducted pursuant to the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
- b) The Department shall serve notice of fine and/or penalty assignments, and provide an opportunity for hearing.
- c) If a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine, pursuant to Section 797.1700 and/or action pursuant to Section 797.1600, shall be due immediately upon issuance of a final order by the Department.
- d) All fines and/or actions that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has, within that time, filed proceedings in administrative review specifically appealing the fine and/or adverse licensure action and unless the court has stayed enforcement of the fine and/or adverse licensure action.