

SUBJECT: ORDINANCE #2004-3 (BODY ART REGULATION)

ADOPTED DATE: SEPTEMBER 7, 2004

Page 1 of 5

REGULATIONS FOR OWNERS AND OPERATORS OF BODY ART AND BODY ART ESTABLISHMENTS INCLUDING TATOOS AND BODY PIERCING

Section 1. Definitions. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

- A. "Body Art" means the practice of physical body adornment by permitted establishments and operators using, 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 state board of medical examiners, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include, for the purposes of this Article, piercing of the non-cartilaginous outer perimeter or lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.
- B. "Body Art Establishment" means any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
- C. "Body Piercing" means puncturing or penetration of the skin of a person with other pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a per-sterilized single-use stud-and-clasp-ear-piercing system shall not be included in this definition.
- D. "Department" means Fargo Cass Public Health Department, or its authorized representatives.
- E. "Ear Piercing" means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.
- F. "Operator" means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control, or authority of somebody else who is an operator.
- G. "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, trusts, or unincorporated organizations.
- H. "Physician" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.
- I. "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.
- J. "Mobile Body Art Establishment" means a body art establishment that operates at a fixed location for a period of time of not more than 14 consecutive days.

Section 2. Unlawful to operate body art establishment without permit--Exemptions.—It shall be unlawful to operate a body art establishment in Cass County, North Dakota, unless a permit is first obtained from the Fargo Cass Public Health Department. The provisions of this article do not apply to physicians or to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.

Section 3. Permit to operate body art establishment issued annually—Fee—Application form—Display of permit required—Health Department to enforce regulations.— Permits issued under the provisions of this Section shall be for periods of up to one year and all permits shall expire on December 31st of each year. Permits shall only be issued by the Fargo Cass Public Health Department after an inspection and approval of the proposed body art establishment by the Fargo Cass Public Health Officer or its designee. The fee, therefore, shall be as established by resolution of the Fargo Cass Public Health Department and applicants shall fill in and sign an application form furnished by the Fargo Cass Public Health Department along with a scale drawing and floor plan of the proposed body art establishment. The permit shall be non-transferable. The permit shall be displayed prominently in the body art establishment where it may be readily observed by clients.

The Fargo Cass Public Health Officer is authorized to promulgate regulations creating minimum standards for body art establishments pertaining to the facilities, preparation and care of the body art area, education and information for prospective clients, professional standards for the body art operators/technicians, sanitation and sterilization procedures, requirements for single use items, maintenance and retention of records of body art procedures, and requirements for posting of notices and information regarding body art, which regulations may be enforced by the Fargo Cass Public Health Officer. A copy of the regulations attached hereto as Appendix A shall be posted in all body art establishments in a prominent location so that they may be read by clients and by operators and technicians of a body art establishment.

Section 4. Inspections of permitted premises.—Any officer of the Fargo Cass Public Health Department may, at any time, enter upon any permitted premises for the purpose of inspection or to determine whether the permitted premises are in compliance with any and all ordinances of the county and regulations promulgated by the Fargo Cass Public Health Department. A copy of the inspection report must be furnished to the permit holder or operator of the body art establishment.

Section 5. Licenses--Termination, suspension, revocation.--All permits issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31st following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, be terminated, suspended or revoked by the Fargo Cass Public Health Department.

A. The Fargo Cass Public Health Department may, in its discretion, suspend or revoke for cause any permit issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:

1. The permittee has filed a petition for bankruptcy.
2. An individual permittee, one of the partners in a partnership permittee, or one of the officers in a corporation permittee, or any individual in active management of the permitted business is convicted of violating any of the provisions of this article.
3. The permittee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
4. The permittee has made any false statement in his application for a permit.
5. The permittee has violated one or more of the rules set by the Fargo Cass Public Health Department or has violated any of the provisions of this ordinance.

B. The grounds enumerated in subsection (A) of this section shall not be deemed to be exclusive and any permit issued under the provisions of this article may be suspended or revoked by the Fargo Cass Public Health Department for any other reason deemed by the Fargo Cass Public Health Department to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any permit is suspended or revoked by the Fargo Cass Public Health Department pursuant to the provisions of this section, or when the permittee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the permittee or to anyone claiming under or through him.

C. No permit issued under the provisions of this article shall be suspended or revoked for cause by the Fargo Cass Public Health Department without a public hearing. In the event that the Fargo Cass Public Health Department intends to consider the suspension or revocation of any permit for cause, it shall direct the Fargo Cass Public Health Office to notify the permittee of its intention to consider the same. The

notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the permittee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the permittee.

If, upon such hearing, it appears to the Fargo Cass Public Health Department that sufficient cause exists for the suspension or revocation of a permit issued pursuant to the provisions of this article, the Fargo Cass Public Health Department shall make its order suspending or revoking the said permit.

Section 6. Unlawful practices.—In addition to such other prohibitions as are contained in this article:

- A. No person shall perform body art on any body part of a person under the age of 18 without the written consent of the parent or legal guardian of such minor and without said parent or legal guardian being present during such procedure.
- B. No person shall obtain or attempt to obtain any body art establishment permit by means of fraud, misrepresentation or concealment.
- C. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
- D. No person shall perform body art procedures unless they are at least 18 years of age.
- E. No person shall interfere with a health department officer in the performance of an inspection or in the performance of any other of his duties.
- F. Failure by the permittee to post regulations which are required to be posted pursuant to this article shall be unlawful.
- G. No person shall engage in the practice of doing body art while such individual is under the influence of alcohol, drugs or other stimulants or depressants.
- H. No person shall perform body art upon any person who is under the influence of alcohol, drugs or other stimulants or depressants, or any person of unsound mind.

Section 7. Penalty.--Every person, firm or corporation violating this article shall, upon conviction thereof, be punished by a fine not to exceed \$1000 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the Court, the Court to have power to suspend said sentence and to revoke the suspension thereof. All fines shall be paid to the Cass County Treasurer.

Section 8. Effective Date.--This ordinance shall be in full force and effect from and after its passage, approval and publication.

Section 9. Severability.--

A. With the passage of the ordinance, the entire county will be covered by a uniform body art ordinance which will apply within the boundaries of Cass County, except that this ordinance will not supersede any ordinance of any political subdivision without its consent nor establish an ordinance in any incorporated political subdivision without its consent.

B. Should any section, provision or part of this ordinance be adjudged invalid or unconstitutional, such adjudication should not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

APPROVED:

ss/Robyn Sorum
Robyn Sorum, Chair
Board of Commissioners of the
County of Cass

ATTEST:

ss/Michael Montplaisir
Michael Montplaisir, County Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

(SEAL)

HISTORICAL REFERENCE DATE: SEPTEMBER 7, 2004

APPENDIX A

The following regulations, promulgated by the Fargo Cass Public Health Department and approved by ordinance of the Board of County Commissioners of Cass County on the 7th day of September, 2004, as authorized by Cass County Home Rule Charter, must be posted in all body art establishments in a prominent location so that they may be read by clients and by operators of a body art establishment.

Section I. Definitions

The following terms used in these regulations shall be defined as follows:

- 1.1 **"AFTERCARE"** means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- 1.2 **"ANTISEPTIC"** means an agent that reduces disease-causing micro-organisms on human skin or mucosa.
- 1.3 **"BODY ART"** means the practice of physical body adornment by permitted establishments and operators using, 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 state board of medical examiners, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include, for the purposes of this Section, piercing of the non-cartilaginous outer perimeter or lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.
- 1.4 **"BODY ART ESTABLISHMENT"** means any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
- 1.5 **"BODY PIERCING"** means puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp-ear-piercing system shall not be included in this definition.
- 1.6 **"CONTAMINATED WASTE"** means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Blood Borne Pathogens."

- 1.7 **“COSMETIC TATTOOING”** see **“TATTOOING”**.
- 1.8 **“DEPARTMENT”** mean Fargo Cass Public Health Department, or its authorized representatives.
- 1.9 **“DISINFECTION”** means the reduction of disease-causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- 1.10 **“EAR PIERCING”** means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer’s instructions.
- 1.11 **“EQUIPMENT”** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- 1.12 **“HAND SINK”** means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.
- 1.13 **“HOT WATER”** means water that attains and maintains a temperature of at least 100° Fahrenheit.
- 1.14 **“INSTRUMENTS USED FOR BODY ART”** means hand pieces, needles, needle bars, and other instruments that may come in contact with a client’s body or may be exposed to bodily fluids during body art procedures.
- 1.15 **“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.
- 1.16 **“JEWELRY”** means any personal ornament inserted into a newly pierced area, which must 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, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.
- 1.17 **“LIQUID CHEMICAL GERMICIDE”** means a disinfectant or sanitizer registered with the U.S. Environmental Protection Agency or an approximately 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500-ppm, ¼ cup per gallon or 2 tablespoons per quart of tap water).
- 1.18 **“MOBILE BODY ART UNIT”** means a vehicle-mounted body art establishment designed to be readily movable.
- 1.19 **“OPERATOR”** means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.
- 1.20 **“PERMIT”** means written approval issued by the county auditor to operate a body art establishment.
- 1.21 **“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, trusts or unincorporated organizations.
- 1.22 **“PHYSICIAN”** means a person currently licensed by the State of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.

- 1.23 **“PROCEDURE SURFACE”** means any surface of an inanimate object that contacts 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.
- 1.24 **“SANITIZATION PROCEDURE”** means a process of reducing the number of micro-organisms on surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.
- 1.25 **“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 and scalpel blades.
- 1.26 **“SHARPS CONTAINER”** means puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is red in color and labeled with the International Biohazard Symbol.
- 1.27 **“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 covering, razors, piercing needles, scalpel blades, stencil cups, and protective gloves.
- 1.28 **“STERILIZATION”** means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.
- 1.29 **“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.
- 1.30 **“UNIVERSAL PRECAUTIONS”** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as “Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers” in Morbidity and Mortality Weekly Report) (MMWR), June 23, 1989, Vol. 38, No. S-6, and as “Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures”, in NNWR, July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood-and body fluid-contaminated products.

Section II. Premises Requirements. The following are the requirements for construction, materials and condition of a body art establishment:

- 2.1 All walls, floors, ceilings, and procedure surfaces of a body art establishment shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and

- sanitized after each client. 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 activities that may cause potential contamination of work surfaces.
- 2.2 Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.
 - 2.3 There shall be adequate floor space for each operator in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers or partitions, at a minimum.
 - 2.4 The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 foot-candles at a height of 3 feet off the floor, except that at least 100 foot-candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
 - 2.5 No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
 - 2.6 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 shall be readily accessible within the body art establishment. One hand sink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory, excluding any service sinks, and one toilet in a body art establishment.
 - 2.7 At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
 - 2.8 All instruments and supplies shall be stored in clean, dry, and covered containers.
 - 2.9 Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

In addition to complying with all the requirements of this code, mobile body art vehicles and operators/technicians working from a mobile body art establishment shall also comply with all of the following requirements:

- 2.10 Mobile body art establishment means a body art establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration. Mobile body art establishments must be permitted in Cass County and permits must be obtained at least fourteen (14) days prior to the event, and no body art procedures are to be performed before a license is issued.

- License holders are responsible for ensuring that all other local agency regulations are complied with, such as, but not limited to, zoning, and business license requirements.
- 2.11 Body art performed pursuant to this Section shall be done only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.
 - 2.12 The mobile body art establishment shall be maintained in a clean and sanitary condition at all times. Doors shall be self-closing and tight-fitting. Operable windows shall have tight-fitting screens.
 - 2.13 Mobile body art establishments must have approved sterilization equipment available in accordance with all requirements of Section VII, "Sanitation and Sterilization Procedures".
 - 2.14 The mobile body art establishment shall be used only for the purpose of performing body art procedures. No habitation or food preparation is permitted inside the vehicle unless the body art station is separated by walls, floor to ceiling, from culinary to domicile.
 - 2.15 The mobile body art establishment shall be equipped with an equipment-washing sink and a separate hand sink for the exclusive use of the operator/technician for hand washing and preparing the client for the body art procedures. The sinks shall be supplied with hot and cold running water under pressure to a mixing type faucet and liquid soap and paper towels in dispensers. An adequate supply of potable water shall be maintained for the mobile body art establishment at all times during operation. The source of water and storage (in gallons) of the tank(s) shall also be identified. Tuberculoidal single-use hand wipes, approved by the Department to augment the hand washing requirements of this section, must be available.
 - 2.16 All liquid wastes shall be stored in an adequate storage tank with a capacity of at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of at a site approved by the department.

Section III. Body Art Operator Requirements And Professional Standards. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Department:

- 3.1 Information about each employee of a body art establishment
 - 3.1.1. Employee's full name and exact duties;
 - 3.1.2. Date of birth;
 - 3.1.3. Gender;
 - 3.1.4. Home address;
 - 3.1.5. Home and work telephone numbers;
 - 3.1.6. Identification photos of all body art operators;
 - 3.1.7. Information about the body art establishment;
- 3.2.1. Establishment name;
- 3.2.2. Name and address of each person who has an ownership interest in the body art establishment;
- 3.2.3. A complete description of all body art procedures performed;

- 3.2.4. 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, lot numbers and dates of manufacture unless such information is not available on the packaging of such product, in which case such information as will otherwise identify the product must be inventoried, such as copies of invoices or orders;
- 3.2.5. A copy of these regulations.

Section IV. Preparation And Care Of The Body Art Area. A body art establishment shall maintain the body art area in conformance with the following practices:

- 4.1 Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
- 4.2 In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of contaminated waste (see definition).

Section V. Education and Information Requirements. Body art establishments and all operators shall provide information and education to prospective clients and to gather information from them as follows:

- 5.1 All clients requesting body art shall be given educational information about body art procedures by the body art establishment both verbally and in writing prior to the commencement of any such procedure. Written educational information shall be approved by the Department. Verbal and written instructions, approved by the Department, for the aftercare of the body art procedure site shall be provided to each client by the operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection and shall 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 retaining the original with all other required records. In addition, all establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of body art services. The facility permit

holder shall also post in public view the name, address and phone number of the local/state department that has jurisdiction over this program and the procedure for filing a complaint. The Disclosure Statement and the Notice for Filing a Complaint shall be included in the establishment permit application packet.

- 5.2 So that the operator can properly evaluate the client's personal history before receiving a body art procedure and not violate the client's rights or confidential medical information, the operator shall ask for the information as follows:

In order for proper healing of your body art procedure, we ask that you disclose if you have or have had any of the following conditions which would require written approval from a licensed physician before any body art will be performed.

- i. Diabetes;
 - ii. History of hemophilia (bleeding);
 - iii. History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectant, etc.;
 - iv. History of allergies or adverse reactions to pigments, dyes, or other skin sensitivities;
 - v. History of epilepsy, seizures, or fainting;
 - vi. Use of medications other than routine antibiotics, allergy medication or birth control pills;
 - vii. Hepatitis;
 - viii. HIV positive;
 - ix. High blood pressure, heart disease;
 - x. Pregnancy;
 - xi. Contagious diseases;
 - xii. Immune system disorders;
 - xiii. Serious physical or mental health problems.
- 5.3 The operator should ask the client to sign a release form confirming that the above information was obtained or that the operator attempted to be obtained. The client should be asked to disclose any other information that would aid the operator in evaluating the client's body art healing process.
- 5.4 Nothing in these regulations shall be construed to require the operator to perform a body art procedure upon a client.

Section VI. Body Art Operator Professional Standards. Body art operators shall comply with the following practices:

- 6.1 No person shall perform body art on a person who the operator knows is under the influence of alcohol or drugs, or has reason to believe may be otherwise legally incapacitated or incompetent.
- 6.2 Body art operators must be at least 18 years of age.
- 6.3 Smoking, eating and drinking is prohibited in the body art procedure area.

- 6.4 An operator shall refuse service to any person who, in the opinion of the operator, is under the influence of alcohol or drugs or whom the operator has reasonable grounds to believe is legally incapacitated.
- 6.5 The operator shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing a body art procedure, the operator must thoroughly wash his or her hands in hot running water with liquid soap, rinse hands and dry them with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- 6.6 The operator shall be vaccinated against the Hepatitis B virus.
- 6.7 The operator shall be certified in CPR.
- 6.8 In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must 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 set 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.
- 6.9 If, while performing a body art procedure, the operator's glove is pierced, torn, or otherwise contaminated, the procedure delineated in subparagraph shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see 6.8 above) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- 6.10 Contaminated waste, as defined in this code, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the International Biohazard Symbol. It must then be disposed of by a waste hauler approved by the department or, at a minimum, in compliance with 29 CFR Part 1910.1030, "Occupational Exposure to Blood Borne Pathogens". Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated 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, approved disposal methods. Storage of contaminated waste on site shall not exceed the period specified by the Department or more than a maximum of 30 days, as specified in 29 CFR Part 1910.1030, whichever is less.

- 6.11 No person shall perform any body art procedure upon a person under the age of 18 years without the presence, written consent, and proper identification of a parent, legal custodial parent, or legal guardian. 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.
- 6.12 Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- 6.13 The skin of the operator shall be free of rash or infection. Unless an impermeable cover such as a bandage, finger cot, and medical glove protects the lesion, no person or operator 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 there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- 6.14 All infections, complications, or diseases resulting from any body art procedure that become known to the operator shall be reported to the Department by the operator within 24 hours.
- 6.15 Under no circumstances shall ear piercing studs and clasps used anywhere on the body other than the non-cartilaginous perimeter and lobe of the ear.

Section VII. Sanitation And Sterilization Procedures. All body art establishments and operators shall comply with the following sanitation and sterilization procedures:

- 7.1 All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly 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 also operated in accordance with manufacturer's instructions.
- 7.2 After being cleaned, all non-disposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized (see 7.3). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed six (6) months.
- 7.3 All cleaned, non-disposable instruments used for body art shall be sterilized in a steam autoclave or dry-heat sterilizer (if approved by the Department). The sterilizer shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and re-sterilizing. Sterilizers shall be located away from work stations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

- 7.4 Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by weekly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Department. These test records shall be retained by the operator for a period of three (3) years and made available to the Department upon request.
- 7.5 All reusable needles used in tattooing and cosmetic tattooing shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instrument used for tattooing/body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- 7.6 All instruments used for tattooing/body piercing 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 gloves are not contaminated.
- 7.7 All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of inks, dyes, or pigments or their dilution with sterile water is acceptable. 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 sterile paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

Section VIII. Requirements For Single Use Items. 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 containers. All products applied to the skin, including body art stencils, shall be single use and disposable. If the Department approves, acetate stencils shall be allowed for reuse if sanitization procedures (see definition in subpart 1.23 of Section I above) are performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its content. The gauze shall be used only once and then discarded.

Section IX. Maintenance and Retention of Client Records. Each body art establishment shall maintain and retain records of all body art procedures administered, which records must include the following

- 9.1 Name, date of birth, and address of the client
- 9.2 Date of procedure
- 9.3 Time of day of procedure

- 9.4 Identification of the materials used (jewelry, inks, etc.)
- 9.5 Location on the client's body of the body art procedure(s) performed
- 9.6 Full name of the operator who performed the body art
- 9.7 Signature of the client; and
- 9.8 If the client is a minor, signature of client's parent or legal guardian

The body art establishment shall keep such records confidential. All client records shall be retained for a minimum of three (3) years. All client records shall be confidential, except that they shall be made available to the Department upon request by the Department.

Section X. Notice Required to Be Posted. In addition to these regulations, the public notices entitled "Tattooing Disclosure Statement" and "Body Piercing Disclosure Statement," both of which have been approved by the Department, shall be posted in a prominent location in the body art establishment where they may be read by clients. A copy of each such public notice is attached hereto and incorporated herein by reference.

PUBLIC NOTICE

TATTOOING DISCLOSURE STATEMENT

- FARGO CASS PUBLIC HEALTH DEPARTMENT DOES NOT ENDORSE OR RECOMMEND TATTOOING IN ANY FORM.
- FARGO CASS PUBLIC HEALTH DEPARTMENT PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.

As with any invasive procedure, tattooing may involve possible health risks. Tattooing could result in:

- Pain, bleeding, swelling, infection, allergic reaction, scarring of the tattooing area and nerve damage.

The Tattooing Operator must:

- Properly cleanse the tattooing site before tattooing
- Use sterilized equipment
- Use sterile tattooing techniques, and
- Inform the client of proper aftercare of the tattooing area.

For comments and/or complaints - contact Fargo Cass Public Health Department, (701) 241-1360 or send written comments to: 401 3rd Ave N Fargo, ND 58102

PUBLIC NOTICE

BODY PIERCING DISCLOSURE STATEMENT

- FARGO CASS PUBLIC HEALTH DEPARTMENT DOES NOT ENDORSE OR RECOMMEND BODY PIERCING IN ANY FORM.
- FARGO CASS PUBLIC HEALTH DEPARTMENT PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.

As with any invasive procedure, body piercing may involve possible health risks. Body Piercing could result in:

- Pain, bleeding, swelling, infection, scarring of the pierced area and nerve damage.

The Piercing Operator must:

- Properly cleanse the piercing site before piercing
- Use sterilized equipment
- Use sterile piercing techniques, and
- Inform the client of proper aftercare of the pierced area.

For comments and/or complaints - contact Fargo Cass Public Health Department, (701) 241-1360 or send written comments to: 401 3rd Ave N Fargo, ND 58102

PERSONAL HISTORY

Please answer the following questions to the best of your ability.

*Have you ever had hepatitis? Yes___ No___

*Have you ever tested HIV positive? Yes___ No___

*Do you have any allergies? Yes___ No___

*Are you a diabetic? Yes___ No___

*Do you have high blood pressure/heart disease? Yes___ No___

*Do you have epilepsy, seizures, fainting, or dizziness? Yes___ No___

*Are you a hemophiliac, have a bleeding disorder, or family history of bleeding?
Yes___ No___

*Do you have a history of skin diseases, easy scarring, easy bruising,
open sores, skin sensitivities? Yes___ No___

*Are you taking any prescription medication other than routine antibiotics, allergy
medication, or birth control pills Yes___ No___

*FEMALES: Are you pregnant? Yes___ No___

*Do you currently have a contagious disease i.e., Tuberculosis, Mononucleosis,
Pneumonia, or Sexually Transmitted Disease? Yes___ No___

*Do you now have, or have you ever had problems with your immune system?
Yes___ No___

*Do you have any serious physical or mental health problems? Yes___ No___

Have you been hospitalized in the past 12 months? Yes___ No___
Explain:

Are you under the influence of drugs or alcohol? Yes___ No___

By my signature below, I certify that I understand and have answered the above questions truthfully and to the best of my knowledge.

Signature_____ Date_____

Print name_____ Date of birth_____

Address_____ Phone no._____

City_____ State_____ Zip_____ SS#_____

Artist_____ Design/procedure_____

Location of procedure_____

Answering yes to one or more of the above questions may suggest the need to consult a licensed physician as per subparagraphs 5.1 and 5.2 of the Regulations for Body Art Establishments and Operators.

HEPATITIS B IMMUNIZATION RECORD

Name of Facility _____

Address _____

Name of Owner _____

Name of operator _____

Hire Date _____ Date of Birth _____ S/S# _____

Hepatitis B Immunization Record:

Date 1st shot _____ Shot given by _____ Facility _____

Date 2nd shot _____ Shot given by _____ Facility _____

Date 3rd shot _____ Shot given by _____ Facility _____

The Hepatitis B documentation must be kept on file at the Establishment and a copy given to the regulatory authority. A photocopy of the operator's CPR certificate should also appear on this form.

UNIVERSAL PRECAUTIONS

The UNIVERSAL PRECAUTIONS, published by the Centers for Disease Control (CDC), are a set of guidelines which health workers (including PSWs) should employ *consistently with all patients/clients*, in order to prevent parenteral, mucous membrane, and non-intact skin exposure to blood borne pathogens.

The following Universal Precautions have been abstracted for their specific relevance to PSWs.

1. Needle stick injuries:

Take care to prevent injuries when using needles, scalpels, and other sharp instruments or devices: a) when handling sharp instruments after procedures; b) when cleaning used instruments; c) when disposing of used needles.

*Do not recap used needles by hand; do not bend, break, or otherwise manipulate used needles by hand

*Locate these containers as close to the area as is practical.

2. Gloves and other protective barriers:

Use protective barriers to prevent exposure to blood/body fluids to which Universal Precautions apply. The types of protective barriers used should be appropriate for the procedures being performed and the type of exposure anticipated.

3. Hand Washing:

Immediately and thoroughly wash hands and other skin surfaces contaminated with blood/body fluids containing visible blood or other body fluids to which Universal Precautions apply.

4. Health Problems:

Health care workers who have weeping dermatitis or draining should refrain from all direct patient/client care and from handling patient-care equipment until the condition has cleared.

5. Pregnancy:

Pregnant health care workers are not known to be at greater risk of contracting HIV infection than non-pregnant health care workers. However, they should be especially familiar with, and strictly adhere to, precautions to minimize this risk.

Excerpted from, "CDC Update: Universal Precautions for prevention of transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Blood Borne Pathogens in Health-Care Settings." *Morbidity and Mortality Weekly Report*, June 24, 1988; 37 (24): 377-78

FARGO CASS PUBLIC HEALTH DEPARTMENT
401 3rd Ave N Fargo, ND 58102

BODY ART LICENSE APPLICATION
(Please Type or Print)

NAME OF ESTABLISHMENT

ESTABLISHMENT ADDRESS

OWNER/OPERATOR

MAILING ADDRESS/PHONE NUMBER

Partners and/or members of corporation:

Name

Address

List others as needed:

Name

Address

Annual License Fee \$200.00
Mobile License Fee \$100.00

Fees are payable prior to January 1st of each year and are effective through December 31st.
\$25.00 Late Fee

Date _____ Signature _____

Title _____

(Please do not write below this line)

The foregoing application is hereby approved and it is recommended that a license be issued, subject to the following provisions:

Approved by _____ Date _____
Health Officer or Representative

Receipt Date _____ Check No. _____