ARTICLE 33-41
TATTOO AND BODY ART

Chapter
33-41-01 Tattoo and Body Art

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Section
33-41-01-01 Definitions
33-41-01-02 Requirements for Premises
33-41-01-03 Body Art Operator Requirements
33-41-01-04 Public Notification Requirements
33-41-01-05 Client Records
33-41-01-06 Records Retention
33-41-01-07 Preparation and Care of the Body Art Area
33-41-01-08 Sanitation and Sterilization Procedures
33-41-01-09 Requirements for Single-Use Items
33-41-01-10 License Requirements
33-41-01-11 Temporary Establishment License
33-41-01-12 Temporary Demonstration Permit Requirements
33-41-01-13 Mobile Body Art Establishments
33-41-01-14 Enforcement

33-41-01-01. Definitions.

The terms used throughout this article have the same meaning as in North Dakota Century Code Chapter 12.1-31, except:

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

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

3. "Body art" means the practice of physical body adornment by permitted or licensed establishments and operators using techniques including body piercing, tattooing, cosmetic tattooing, branding, scarification, and subdermal implanting. This definition does not include, for the purpose of this article, piercing of the outer perimeter or lobe of the ear with presterilized single-use stud-and-clasp ear-piercing systems.

4. "Body art establishment" means any place or premise, whether public or private, temporary or permanent, in nature of location, where the practices of body art, whether or not for profit, are performed.

5. "Body piercing" means puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.

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

7. "Contaminated waste" means any liquid or semiliquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semiliquid 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, known as "occupational exposure to bloodborne pathogens".

8. "Cosmetic tattooing" is included in the definition of tattooing.

9. "Department" means the state department of health.

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

11. "Ear piercing" means the puncturing of the noncartilaginous perimeter or lobe of the ear with a presterilized 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.

12. "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.

13. "Handsink" means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.

14. "Hot water" means water that attains and maintains a temperature of at least one hundred degrees Fahrenheit.

15. "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.

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

17. "Jewelry" means any personal adornment inserted into a newly pierced area, which may be made of surgical implant-grade stainless steel; solid fourteen karat or eighteen karat white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and which has been properly sterilized prior to use.

18. "Liquid chemical germicide" means a disinfectant or sanitizer registered with the United States environmental protection agency or an approximately one-to-one hundred dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (five hundred parts per million, one-fourth cup per gallon, or two tablespoons per quart of tap water).

19. "Mobile body art establishment or unit" means a mobile establishment or unit which 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 which operates at a fixed location where a permitted or licensed operator performs body art procedures.

20. "Operator" means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment and who is responsible for compliance with these rules, whether actually performing body art activities or not. The term includes an assistant technician who works under the operator and performs body art activities.

21. "Person" means an individual, any form of business or social organization or any other nongovernmental legal entity, including corporations, partnerships, limited liability companies, associations, trusts, or unincorporated organizations.

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.

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

24. "Sanitization procedure" means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the department.

25. "Sharps" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including presterilized, single-use needles; scalpel blades; and razor blades.

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

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 cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

28. "Sterilization" means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

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.

30. "Temporary body art establishment" means any place or premise operating at a fixed location where an operator performs body art procedures for no more than fourteen days consecutively in conjunction with a single event or celebration.

31. "Ultrasonic unit" means a unit approved by the department, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high-frequency oscillations transmitted through the contained liquid.

32. "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 *(MMWR)*, 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 handwashing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood-contaminated and body fluid-contaminated products.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01-02. Requirements for premises.

Following are the minimum requirements for construction, materials, and general condition of a body art establishment:

1. The operator of a new or extensively remodeled body art establishment shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the department, as part of the license application process.

2. 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 and 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 activity that may cause potential contamination of work surfaces, exposed equipment, or client procedure sites.

3. 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.

4. There shall be adequate floor space for the operator in each procedure room. Each establishment shall have procedure rooms that may be closed or screened, or both, from public view for clients requesting privacy.

5. The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least twenty foot candles measured three feet off the floor, except that at least one hundred foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

6. 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.

7. A separate, readily accessible handsink with hot and cold running water, under pressure, preferably equipped with wrist-operated or foot-operated controls and supplied with liquid soap and disposable paper towels shall be readily accessible within the body art establishment. One handsink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory, excluding service sinks, and one toilet in a body art establishment.

8. 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.

9. All instruments and supplies shall be stored in clean, dry, and covered containers.

10. Reusable cloth items shall be mechanically washed with detergent and chlorine bleach and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

History: Effective January 1, 2008
General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01-03. Body art operator requirements.

1. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the department:
   a. Employee information:
      (1) Full names and exact duties;
      (2) Date of birth;
      (3) Gender;
      (4) Home address;
      (5) Home and work telephone numbers; and
      (6) Identification photos of all body art operator/technicians.
   b. Establishment information:
      (1) Establishment name;
      (2) Hours of operation; and
      (3) Owner's name and address.
   c. A complete description of all body art procedures performed.
   d. An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
   e. A copy of these regulations.
2. The body art operator must be a minimum of eighteen years of age.
3. Smoking, eating, or drinking is prohibited in the area where body art is performed.
4. Operators shall refuse service to any person who, in the opinion of the operator, is under the influence of alcohol or drugs.
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 body art procedures, operators must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
6. In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any nonclean 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 or gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for handwashing procedures as part of a good personnel hygiene program.

7. If, while performing a body art procedure, the operator's glove is pierced or torn, or otherwise contaminated, the procedure delineated in subsection 6 shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly as described in subsection 6 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.

8. Contaminated waste 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 bloodborne 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 onsite shall not exceed the period specified by the department or more than a maximum of thirty days, as specified in 29 CFR part 1910.1030, whichever is less.

9. No person shall perform any body art procedure upon a person under the age of eighteen 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 eighteen years of age with parental or guardian consent.

10. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.

11. The skin of the operator shall be free of rash or infection. No person or operator affected with boils, infected wounds, open sores, abrasions, keloids, 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 the person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

12. The operator shall be vacinnated against the hepatitis B virus. The operator is responsible for ensuring that all individuals working at the operator's establishment initiate the hepatitis B vaccination series within thirty days of starting work unless the individuals have previously received the complete hepatitis B vaccination series and can provide documentation to the department, antibody testing has revealed that the individual is immune, or the vaccine is contraindicated for medical reasons.

13. The operator shall be certified in cardiopulmonary resuscitation.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-04. Public notification requirements.

1. Verbal and written public educational information, approved by the department, shall be required to be given to all clients wanting to receive body art procedures. 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 telephone 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 licenseholder shall also post in public view the name, address, and telephone number of the local or 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 license application packet.

2. 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 twenty-four hours.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-05. Client records.

1. So that the operator can obtain knowledge about the client's health status for receiving a body art procedure, the operator or technician shall ask for the information as follows:

   So your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions:

   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;

   e. History of epilepsy, seizures, fainting, or narcolepsy;

   f. Use of medications such as anticoagulants, which thin the blood or interfere with blood clotting;

   g. Use of medications other than routine antibiotics, allergy medication, or birth control pills;

   h. Hepatitis;

   i. HIV positive;

   j. High blood pressure or heart disease;

   k. Pregnancy;

   l. Contagious diseases;

   m. Immune system disorder; or

   n. Serious physical or mental health problems.

2. The operator shall ask the client to sign a release form confirming that the information described in subsection 1 was obtained or that the operator attempted to obtain the information. The client shall be asked to disclose any other information that would aid the operator in evaluating the client's body art healing process.

3. Each operator shall keep records of all body art procedures administered, including client name and signature, date of birth, date, time, identification and location of the body art procedure performed, and the operator's name. If the client is a minor, proof of parental or guardian presence and consent must be obtained and signed and the record retained. All client records shall be confidential and be retained for a minimum of three years and made available to the department upon notification.

4. Nothing in this section shall be construed to require the operator to perform a body art procedure upon a client.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-06. Records retention.

The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client; the date and time of the procedure; the name of the operator who performed the procedures; type and location of procedure performed; and the signature of the client; and, if the client is a minor, proof of parental or guardian presence and consent, i.e., signature. Such records shall be retained for a minimum of three years and shall be available to the department upon request. The department and the body art establishment shall keep such records confidential.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-07. Preparation and care of the body art area.

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.

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 biomedical waste. The use of styptic pencils or alum solids shall not be used to check the flow of blood.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-08. Sanitation and sterilization procedures.

1. All nonsingle-use, nondisposable 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 the manufacturer's instructions.

2. After being cleaned, all nondisposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized as specified in subsection 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 months.

3. All cleaned, nondisposable 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 instruction. 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 resterilizing. Sterilizers shall be located away from workstations 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.

4. Each holder of a license to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The license 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 years and made available to the department upon request.

5. Tattoo needles and piercing needles are not reusable under any circumstances. After use, all needles, razors, and other sharps shall be immediately disposed of in red sharps containers, appropriately labeled with the international biohazard symbol. After sterilization, all reusable instruments used for tattooing or body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

6. All instruments used for tattooing or 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. 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 approved inks, dyes, or pigments or their dilution with potable 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 paper cups or plastic cups. Upon completion of the tattoo, these single cups or cups and their contents shall be discarded.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-09. Requirements for single-use items.

1. 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.

2. 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 as specified in subsection 24 of section 33-41-01-01 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 contents. The gauze shall be used only once and then discarded.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-10. License requirements.

1. No person, firm, partnership, joint venture, association, business trust, corporation, or organized group of persons may operate a body art establishment except with a body art establishment license from the department.

2. It is prohibited to obtain or attempt to obtain any body art establishment or operator permit by means of fraud, misrepresentation, or concealment.

3. A license for a body art establishment shall not be transferable from one place or person to another.

4. The current body art establishment license shall be posted in a prominent and conspicuous area where it may be readily observed by clients.

5. The annual license fee for all types of body art establishments is one hundred thirty-five dollars.

History: Effective January 1, 2008; amended effective January 1, 2014.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-11. Temporary establishment license.

Temporary establishment licenses, when required, may be issued for body art services provided outside of the physical site of a certified facility for the purposes of product demonstration, industry trade shows, or education. Temporary establishment licenses will not be issued unless:

1. The applicant furnishes proof of compliance with section 33-41-01-10 relating to license requirements;

2. The applicant is currently affiliated with a fixed location or permanent facility which, where applicable, is licensed by the appropriate state or local jurisdiction; and

3. The temporary site complies with section 33-41-01-12 temporary demonstration license requirements.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-12. Temporary demonstration permit requirements.

1. A person who wishes to obtain a temporary demonstration license must submit the request in writing for review by the department at least thirty days prior to the event. The request must specify:

    a. The purpose for which the license is requested.

    b. The period of time during which the license is needed, not to exceed fourteen calendar days per event, without reapplication.

    c. The location where the temporary demonstration license will be used.

2. The applicant's demonstration project must be contained in a completely enclosed, nonmobile facility (e.g., inside a permanent building).

3. Compliance with all of the requirements of this code includes the following:

   a. Conveniently located handwashing 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. Tuberculocidal single-use hand wipes, approved by the department, to augment the handwashing requirements of this section must be available in each booth or cubicle.

   b. There shall be at least one hundred foot candles of light at the level where the body art procedure is being performed.

   c. Facilities to properly sterilize instruments and evidence of a spore test performed on sterilization equipment thirty days or less prior to the date of the event must be provided, or only single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed.

   d. Ability to properly clean and sanitize the area used for body art procedures is required.

4. The facility where the temporary demonstration license needed must be inspected by the department and the license issued prior to the performance of any body art procedure.

5. Temporary demonstration licenses issued under the provisions of this code may be suspended by the department for failure of the holder to comply with the requirements of this code.

6. All establishment licenses and the disclosure notice must be readily seen by clients.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-13. Mobile body art establishments.

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

1. Mobile body art establishments are licensed annually, and no body art procedures are to be performed before a license is issued. Licenseholders are responsible for ensuring that all other local agency regulations are complied with, including zoning and business license requirements.

2. 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.

3. 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. Openable windows shall have tight-fitting screens.

4. Mobile body art establishments must have approved sterilization equipment available, in accordance with all requirements of section 33-41-01-08.

5. 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 workstation is separated by walls, floor to ceiling, from culinary or domicile areas.

6. The mobile body art establishment shall be equipped with an equipment washing sink and a separate handsink for the exclusive use of the operator for handwashing and preparing the client for the body art procedure. The handsink 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 the water and storage, in gallons, of the tanks shall also be identified. Tuberculocidal single-use hand wipes, approved by the department, to augment the handwashing requirements of this section, must be available.

7. All liquid wastes shall be stored in an adequate storage tank with a capacity at least fifty percent greater than the capacity of the onboard potable water supply. Liquid wastes shall be disposed of at a site approved by the department.

8. Restroom facilities must be available within the mobile body art establishment. A handsink must be available inside the restroom cubicle. The handsink 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. Restroom doors must be self-closing and adequate ventilation must be available.

9. No animals, except service animals of clients, shall be allowed in the mobile body art establishment at any time.

10. Mobile body art establishments must receive a preoperational inspection to ensure compliance with structural requirements.

11. All mobile body art establishment licenses, as well as the disclosure notice, must be readily seen by clients.

History: Effective January 1, 2008.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01-14. Enforcement.

1. It is a class B misdemeanor for establishments that continue to operate without proper permits from the department or operate in violation of these regulations.

2. A representative of the department shall provide proper identification as such before entering a body art establishment to make an inspection. Such an inspection must be conducted as often as necessary throughout the year to ensure compliance with this code.

3. It is unlawful for any person to interfere with the department in the performance of its duties.

4. A copy of the inspection report must be furnished to the licenseholder or operator of the body art establishment, with the department retaining possession of the original.

5. If, after investigation, the department should find that a licensee is in violation of this code, the department may advise the licensee, in writing, of its findings and instruct the licensee to take specific steps to correct such violations within a reasonable period of time.

6. If the department has reasonable cause to suspect that a communicable disease is or may be transmitted by an operator, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions that may adversely affect the health of the public, upon written notice to the owner or operator, the department may do any or all of the following:

   a. Issue an order excluding any or all operators from the licensed body art establishment who are responsible, or reasonably appear responsible, for the transmission of a

communicable disease until the department determines there is no further risk to public health.

b. Issue an order to immediately suspend the license of the establishment until the department determines there is no further risk to the public health. Such an order shall state the cause for the action.

7. Licenses issued under the provisions of the code may be suspended temporarily by the department for failure of the holder to comply with the requirements of this code.

8. Whenever a licenseholder or operator has failed to comply with any notice issued under the provisions of this code, the operator must be notified in writing that the license is, upon service of this notice, immediately suspended. The notice must also contain a statement informing the licenseholder or operator that an opportunity for a hearing will be provided if a written request for a hearing is filed with the department.

9. Any person whose license has been suspended may, at any time, make application for reinstatement of the license. Within ten days of receipt of a written request, including a statement signed by the applicant, that in the applicant's opinion the conditions causing the suspension have been corrected, the department shall reinspect the body art establishment or evaluate documentation provided by an operator. If the applicant is in compliance with the provisions of this code, the license will be reinstated.

10. For repeated or serious (any code infraction that threatens the health of the client or operator) violations of any of the requirements of this code or for interference with department personnel in the performance of their duties, a license may be permanently revoked after a hearing. Before taking such action, the department shall notify the licenseholder or operator in writing, stating reasons for which the license is subject to revocation and advising the licenseholder or operator of the requirements for filing a request for a hearing. A license may be suspended for cause, pending its revocation or hearing relative thereto.

11. The department may permanently revoke a permit after five days following service of the notice unless a request for hearing is filed within the five-day period with the department by the licenseholder.

12. The hearings provided for in this section must be conducted by the department at a time and place designated by the hearing officer. On the basis of the record of the hearing, the department shall make a finding and may sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision must be furnished to the licenseholder or operator by the department.

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