

**ARTICLE 33-41
TATTOO AND BODY ART**

Chapter
33-41-01 Tattoo and Body Art [Repealed]
33-41-01.1 Body Art Code

SECTION 1: Chapter 33-41-01 is repealed:

**CHAPTER 33-41-01
TATTOO AND BODY ART**

[Repealed effective October 1, 2026.]

Section
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~~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 of 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 vaccinated 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.~~

History: Effective January 1, 2008.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

SECTION 2: Chapter 33-41-01.1 is created as follows:

CHAPTER 33-41-01.1
BODY ART CODE

Section

<u>33-41-01.1-01</u>	<u>Definitions</u>
<u>33-41-01.1-02</u>	<u>Health and Hygiene Standards and Reporting Requirements</u>
<u>33-41-01.1-03</u>	<u>Jewelry Standards and Recordkeeping</u>
<u>33-41-01.1-04</u>	<u>Specific Regulations for Specific Types of Body Art</u>
<u>33-41-01.1-05</u>	<u>Public Notification Requirements</u>
<u>33-41-01.1-06</u>	<u>Documentation Requirements</u>
<u>33-41-01.1-07</u>	<u>Informed Consent and Release Form</u>
<u>33-41-01.1-08</u>	<u>Disinfection and Sterilization Procedures</u>
<u>33-41-01.1-09</u>	<u>Preparation and Care of the Procedure Site</u>
<u>33-41-01.1-10</u>	<u>Requirements for Single-Use Items</u>
<u>33-41-01.1-11</u>	<u>Regulated Waste</u>
<u>33-41-01.1-12</u>	<u>Requirements for Premises</u>
<u>33-41-01.1-13</u>	<u>Temporary Body Art Establishments</u>
<u>33-41-01.1-14</u>	<u>Mobile Body Art Establishments</u>
<u>33-41-01.1-15</u>	<u>License Requirements</u>
<u>33-41-01.1-16</u>	<u>Prohibitions</u>
<u>33-41-01.1-17</u>	<u>Inspection</u>
<u>33-41-01.1-18</u>	<u>Denial, Suspension, Revocation, and Disciplinary Action</u>
<u>33-41-01.1-19</u>	<u>Waiver Provision</u>
<u>33-41-01.1-20</u>	<u>License Fees</u>

33-41-01.1-01. Definitions.

In this chapter, unless context or subject matter requires otherwise:

1. “Aftercare” means instructions that are required to be given to the client, verbally and in writing, by the body artist, specific to each body art procedure rendered, about caring for the body art and the surrounding area. These instructions must include information about when to seek medical treatment.
2. “Antiseptic” means a product that is labeled as useful in preventing diseases caused by microorganisms present on the skin or mucosal surfaces of an individual. This includes products meant to kill germs or labeled as “antiseptic,” “antimicrobial,” “antibacterial,” “microbicide,” or “germicide,” or other similar terms.
3. “Aseptic technique” means a set of specific practices and procedures performed under controlled conditions with the goal of minimizing contamination by pathogens.

4. “Autoclave” means a piece of equipment that is intended to sterilize products by means of pressurized steam.
5. “Automated instrument washer” means a mechanical washer designed specifically for the decontamination of instruments prior to sterilization.
6. “Biocompatible” means the ability of an object to be inserted into an individual without eliciting any undesirable local or systemic effects in that individual.
7. “Biohazardous waste” means any material that contains solid or liquid waste that can present a threat of infection to an individual if handled improperly, including body tissue, blood and bodily fluids, and wastes that contain blood or other potentially infectious material. This includes absorbent materials with blood, bodily fluids, excretions and secretions, or other contaminated products used during a body art procedure.
8. “Bloodborne pathogen” means pathogenic microorganisms that are present in an individual’s blood and can cause disease in individuals. These pathogens include hepatitis B virus, hepatitis C virus, and human immunodeficiency virus.
9. “Body art” means body piercing, tattooing, cosmetic tattooing, branding, scarification, or subdermal implants.
10. “Body art establishment” means any place, studio, facility, or premises where the practice of body art is performed.
11. “Body artist” means any individual who performs body art services.
12. “Body piercing” means any method of piercing the skin or mucosa to place jewelry through the skin or mucosa. Body piercing, in the context of this chapter, does not include piercing of the non-cartilaginous perimeter or lobe of the ear with a single-use ear-piercing gun or stud-and-clasp ear-piercing systems.
13. “Branding” means the process in which a mark is burned into skin with the intention of leaving a permanent mark.
14. “Client” means an individual upon whom a body artist performs a body art procedure.
15. “Complaint of injury form” means a document used to file with the department a notice of injury as a result of a body art procedure.

16. “Contaminated” means the presence or the reasonably anticipated presence of blood or other potential infectious material on an item or surface.
17. “Cosmetic tattooing” means any method of placing ink or other pigment into or under the skin or mucosa by the use of needles or any other instrument used to puncture the skin, including permanent or semi-permanent makeup, scalp micropigmentation, and microblading.
18. “Cycle number” means a unique number that corresponds to each individual autoclave cycle. This number is used as an identifier, sometimes known as a lot number. It may include the date as part of the number.
19. “Decontamination” means the use of physical or chemical means to remove, inactivate, or destroy pathogens on a surface. A surface or item is decontaminated when there are no infectious particles and the surface or item is rendered safe for handling, use, or disposal.
20. “Department” means the North Dakota department of health and human services.
21. “Disinfect” means to destroy pathogenic and other kinds of microorganisms by physical or chemical means.
22. “Disinfectant” means a product that is tuberculocidal and registered by the environmental protection agency, as indicated on the label for use in disinfection.
23. “Divider” means a partition used to separate or delineate a workstation from other workstations, such as non-absorbent curtains, knee walls, or other hard partitions.
24. “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, also known as an ear-piercing gun, following the manufacturer’s instructions.
25. “Equipment” means all machinery, containers, vessels, implements, storage areas, and sinks that are used in conjunction with the storage or application of body art, by a body artist, or used in the sterilization, decontamination, or disinfection processes.
26. “Exposure control plan” means a written plan that is developed and implemented by employers who have determined that employees are exposed to bloodborne pathogens. An exposure control plan is mandated under the bloodborne pathogens standard listed at title 29, Code of Federal

Regulations, part 1910, section 1030.

27. "Furnishings" means all fixtures, furniture, and other objects within a body art establishment that are not integral to the structure of the physical establishment, including walls, windows, and doors, and are not used in the storage of body art equipment and instruments, application of body art, or sterilization, decontamination, or disinfection processes.
28. "Gloves" means medical grade or exam grade, sterile or nonsterile, disposable, single-use, and full-hand coverings worn for protection against disease transmission.
29. "Guardian" means a person who has been appointed by a court as a guardian of a minor or incapacitated individual.
30. "Handwashing" means the act of cleaning one's hands for the purpose of removing dirt, soil, or microorganisms through the use of soap, warm water, and friction.
31. "Handwashing sink" means a sink equipped to provide water at a temperature of at least one hundred degrees Fahrenheit [38 degrees Celsius] through a mixing valve or combination faucet, used solely for washing hands, wrists, arms, or prosthetics.
32. "Imminent health hazard" means a product, practice, circumstance, or event which poses a significant threat to the health and safety of clients, employees, or the general public and that requires immediate correction.
33. "Informed consent and release form" means information that the body artist offers to the client or parent or guardian, verbally and in writing, on a single form or multiple forms, which is signed by the client or parent or guardian prior to a body art procedure to confirm that the client or parent or guardian of the client agrees to the procedure and is aware of any risks that might be involved.
34. "Initial piercing" means a new body piercing.
35. "Instruments" means tools, devices, or implements used for body art such as handpieces, needles, needle bars, tapers, tattoo machines, forceps, and other tools that could come in contact with a client's body or could be exposed to bodily fluids during body art procedures.
36. "Jewelry" means any biocompatible object that is worn through a body piercing.
37. "Licensed medical professional" means an individual who is licensed under

North Dakota law to provide medical or health care services within their professional scope of practice.

38. “Maintenance” means repairs and upkeep of equipment as recommended by the manufacturer.
39. “Material Safety Data Sheet” means a document intended to state the specifications of a material used for body jewelry, including a material certificate, mill certificate, and metal composition sheet.
40. “Minor” means an individual under the age of eighteen years.
41. “Mobile body art establishment” means a licensed mobile establishment that is self-propelled or otherwise movable and operated by a body artist who performs body art procedures in a mobile body art establishment.
42. “Mucosa” means the moisture-secreting membrane lining of all body cavities or passages that communicate with the exterior, including the nose, mouth, vulva, and urethra.
43. “Municipal solid waste” means common trash or garbage that does not meet the definition of regulated waste.
44. “Operator” means any individual who controls any interest in, operates, or manages a fixed, mobile, or temporary body art establishment and who is responsible for compliance with this chapter, whether or not the individual is performing body art procedures.
45. “Other potentially infectious material” means:
 - a. The following human body fluids: semen; vaginal secretions; cerebrospinal fluid; synovial fluid; pleural fluid; pericardial fluid; peritoneal fluid; amniotic fluid; saliva in dental procedures; any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
 - b. Any unfixed tissue or organ, other than intact skin, from an individual; and
 - c. human immunodeficiency virus containing cell or tissue cultures, organ cultures, human immunodeficiency virus or hepatitis B virus - containing culture medium or other solutions, blood, organs, or other tissues from experimental animals infected with human immunodeficiency virus, hepatitis C virus, or hepatitis B virus.

46. “Personnel” means employees, body artists, contracted body artists, and agents of the body art establishment, whether or not actually performing body art activities.
47. “Procedure” means the act of performing body art.
48. “Procedure area” means a room, portion of a room, or any surface of an inanimate object that is designated to be used only to perform body art.
49. “Procedure site” means the area or location on the client’s body selected for the placement of body art.
50. “Propylene gas” means any gas that is labeled with an American chemical society registry number of 115-07-1, including methylacetylene, propyne, propadiene, propane, and methyl ethylene.
51. “Regulated waste” means a liquid or semi-liquid blood; items contaminated with blood or other potentially infectious material, and which would release these substances if compressed; items that are caked with dried blood or other potentially infectious material and are capable of releasing these materials during handling; and contaminated sharps containing blood or other potentially infectious material.
52. “Safety data sheet” means a document for any potentially harmful chemical that includes information on the chemical’s properties, hazards, protective measures, and safety precautions for handling, storing, and transportation. Safety data sheet is the current term for material safety data sheet.
53. “Scarification” means the practice in which a mark or marks are cut into skin with the intention of leaving a permanent mark.
54. “Sharps” means any object that can purposely or accidentally cut or penetrate the skin or mucosa, including presterilized single-use needles, scalpel blades, and razor blades.
55. “Sharps container” means a closable, puncture-resistant container that is leakproof on the sides and bottom, made specifically for the purpose of disposal of sharps, which can be closed for handling, storage, transportation, and disposal. A sharps container must be clearly labeled with the international biohazard symbol.
56. “Single-use” means products or items that are intended for one-time, one-individual use and are disposed of after use on each client, including cotton swabs or cotton balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, needles, scalpel blades, stencils, marking pens, ink cups, and protective gloves.

57. “Spore test” means a test or device used to verify that one or more critical variables of an autoclave cycle have been achieved and contains viable microorganisms or bacterial spores with known resistance to a specific sterilization process. Spore tests are used to verify the autoclave cycle achieved conditions sufficient to destroy a defined population of microorganisms. A spore test is required for any body art establishment that sterilizes jewelry or instruments used in body art procedures.
58. “Sterile” means a state of being free from viable microorganisms.
59. “Sterile gloves” means medical-grade or exam-grade disposable, single-use coverings for the hands worn for protection against disease transmission. Sterile gloves must be sterilized by the manufacturer or by following the sterilization protocol set forth by the glove manufacturer.
60. “Sterile water” means water that is purchased from the manufacturer sterile in a single-use container.
61. “Sterilization” means a validated process used to render a product free from viable microorganisms.
62. “Sterilization area” or “sterilization room” means a room or enclosed area, set apart and used only to clean, decontaminate, and sterilize instruments.
63. “Sterilization log” means a physical or digital recording of autoclave cycle number, as well as type of sterilizer and cycle used, the load identification number, the load contents, the exposure parameters such as time and temperature, the operator’s name or initials, date and time, and the results of mechanical, chemical, or biological monitoring.
64. “Strike branding” means the process by which a mark is burned with heated metal into the tissue of an individual.
65. “Subdermal implant” means to insert a foreign object beneath the skin to decorate an individual’s body.
66. “Tattoo” or “tattooing” means any method of placing ink or other pigment into or under the skin or mucosa by the use of needles or any other instrument used to puncture the skin, resulting in permanent colorization of the skin or mucosa. This term includes all forms of cosmetic tattooing, as defined in this section.
67. “Temporary body art establishment” means any place or premises operating at a fixed location in the state where a body artist performs body art procedures for a limited duration, not to exceed fourteen days

consecutively, but does not have a body art establishment license. This term includes conducting operations for the following purposes: educational, convention, public or private events, performance, product demonstration, or aesthetic shows.

68. “Thermal cautery unit” means electrical equipment that provides direct or alternating current that is passed through a resistant metal wire electrode, generating heat used for branding.
69. “Type 5 Integrator” means a device designed to validate all three of the following critical variables of an autoclave cycle: time; temperature; and steam under pressure. Type 5 integrators verify autoclave cycle sterilization but are not a substitute for the required spore test.
70. “Ultrasonic” or “ultrasonic cleaner” means equipment that removes debris by cavitation.
71. “Ultraviolet air purifier” means a machine designed to use shortwave ultraviolet light to inactivate airborne pathogens and microorganisms.
72. “Workstation” means the area within a procedure area where a body artist performs body art. The workstation includes the client chair or table, counter, instrument stand, instrument tray, storage drawer, and body artist’s chair.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-02. Health and hygiene standards and reporting requirements.

1. The body artist performing body art procedures and any personnel performing any other task or function in a body art establishment shall use aseptic techniques.
2. The body artist shall:
 - a. Maintain hair, skin, and clothes that are free of visible particulate matter and debris;
 - b. Keep fingernails short with smooth, filed edges to allow thorough cleaning and prevent glove tears; and
 - c. Not wear artificial fingernails or extenders, and natural nail tips must be less than one-eighth of an inch [3.175 millimeters] long. Nail polish must be intact without chips or cracks.

3. The body artist must be free of any open wound that is not able to be covered, any infection, or other visible or communicable diseases that can be transmitted as a result of carrying out the body art procedure.
4. The body artist is prohibited from wearing jewelry on fingers, hands, and wrists while performing a body art procedure.
5. Before performing body art procedures, body artists shall thoroughly wash their hands in a handwashing sink as specified under sections 33-41-01.1-09 and 33-41-01.1-12, and according to the following handwashing procedure:
 - a. Wet hands with clean, running water, turn off the tap, and apply soap;
 - b. Lather hands by rubbing them together, ensuring to lather the backs of hands, between fingers, and under nails;
 - c. Scrub hands for at least twenty seconds;
 - d. Rinse hands under clean, running water with your fingers pointed up toward the faucet and rinse down to your wrists;
 - e. Dry with a clean disposable towel; and
 - f. Use a new clean disposable towel to turn off the handles of the sink.
6. The body artist shall remove any item, equipment, or instrument used for body art procedures that is anticipated or known to be contaminated, not from the client, during the procedure as soon as practicable from the procedure area and, if necessary, replace it before the procedure resumes. Any item, equipment, or instrument no longer necessary for the procedure must be removed as soon as practicable from the procedure area.
7. Eating or drinking of any kind is prohibited in the procedure area, in the area where body art preparations are performed, and in any location where instruments or supplies are stored or cleaned. Exceptions may be made for the purpose of rendering first aid.
8. Any adverse event such as an injury or complaint of injury, infections that required treatment by a licensed medical professional, or any communicable diseases resulting from the body art procedure that become known to the body artist must be reported by the operator or the body artist to the department using a complaint of injury form within three business days of the body artist becoming aware of the complaint or condition, and a record of this report must be retained as specified in section 33-41-01.1-06.

9. Body artists shall report all adverse events including any harmful reaction, injury, or illness relating to or suspected of being related to materials and products used during a body art procedure or its aftercare to the department, including the name of the body artist, the date of procedure, client information records as specified in section 33-41-01.1-07, description of adverse events, and a complete description of materials involved with manufacturer name, lot codes, and batch codes if the client is required to seek medical attention. A record of this reporting must be maintained with the complaint of injury form in client records under section 33-41-01.1-06.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-03. Jewelry standards and recordkeeping.

1. All jewelry used in initial body piercings must meet the following standards:
- a. All biocompatible materials, including steel, unalloyed or alloyed titanium, polymer or plastic material, and polytetrafluoroethylene, must meet the ASTM international or the international organization for standardization standards for implantation in effect on October 1, 2026. All jewelry used for initial piercing on individuals twelve and younger must be compliant with ASTM international standard F2923 in effect on October 1, 2026.
 - b. Solid 14-karat or higher yellow, white, or rose gold that is nickel-free and cadmium-free. Gold jewelry used for initial piercing may not:
 - (1) Be plated, unless using materials approved by this standard over solid 14-karat or higher yellow, white, or rose gold that is nickel and cadmium-free;
 - (2) Be gold-filled; or
 - (3) Have a gold overlay or vermeil.
 - c. Solid unalloyed or alloyed platinum must be nickel-free and cadmium-free.
 - d. Unalloyed niobium must be compliant with ASTM international standard B392, in effect on October 1, 2026.
 - e. Glass must be lead-free.
 - f. All threaded or press-fit jewelry may not have threads on the exterior of posts and barbells.

- g. Body jewelry surfaces and ends must be smooth and free of nicks.
 - h. Biocompatible objects inserted beneath the skin with no exit from the body must be composed only of implant-grade materials intended for long-term implantation in tissue and manufactured to recognized medical standards. Materials, jewelry or objects not designated as implant-grade and approved by the department are prohibited. Approved materials include:
 - (1) Implant-grade silicone;
 - (2) Titanium meeting ASTM international standards or international organization for standardization standards;
 - (3) Polytetrafluoroethylene meeting ASTM international standards or international organization for standardization standards in effect on October 1, 2026; and
 - (4) Other materials designed for implantation, supported by manufacturer documentation verifying biocompatibility, and approved by the department.
2. The body art establishment operator shall retain printed or electronic records of receipts to certify the body art establishment has an adequate amount of jewelry for initial piercings, and shall:
- a. Provide to department, upon request, receipts for jewelry purchased for initial piercings and inventory present in the body art establishment. Receipts must list specifications for materials for each lot of jewelry purchased from the manufacturer as required in subsection 1; and
 - b. Retain records as specified in section 33-41-01.1-06.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-04. Specific regulations for specific types of body art.

- 1. Specific regulations for body piercing: It is prohibited to use ear piercing studs and clasp systems or ear-piercing guns anywhere on the body other than the outer non-cartilaginous perimeter and lobe of the ear.
- 2. Specific regulations for tattooing and cosmetic tattooing:

- a. All inks, dyes, and pigments must be specifically manufactured for performing body art procedures.
- b. Only distilled water or sterile water may be used for the dilution of inks, dyes, or pigments. Diluting or mixing with potable water or any other substance is not acceptable. Such dilution must be single-use for the individual procedure. Immediately before a tattoo is applied, the quantity of the ink or pigment to be used must be transferred from the ink or pigment bottle and placed into single-use plastic cups or caps.
- c. Upon completion of a tattoo, all single-use items and the contents thereof must be discarded.
- d. For individuals performing microblading or manual procedures, once the needle grouping or blade is attached to the handpiece it may not be removed and must be fully disposed of into a sharps container whether or not used.

3. Specific regulations for branding:

- a. The client having branding procedures performed must be eighteen years of age or older. A parent or guardian may not consent to have branding performed on a minor.
- b. The procedure area must have walls that extend to the ceiling and a closable door.
- c. The procedure area must be equipped with an ultraviolet air purifier appropriately sized to the room based on the square footage and the manufacturer's recommendations.
- d. Any individual present during the procedure, including all personnel and the client, shall wear protective eyewear, sterile gloves, and a mask rated as N-95 or higher.
- e. Body artists shall use strike branding or a thermal cautery unit.
- f. Only nongalvanized metal may be used for strike branding.
- g. Body artists shall use only propylene gas to heat the metal for strike branding.

4. Specific regulations for scarification:

- a. The client having scarification procedures performed must be

eighteen years of age or older. A parent or guardian may not consent to have scarification performed on a minor.

- b. The body artist shall wear disposable sleeves.
- c. The procedure area must have walls that extend to the ceiling and a closable door.
- d. The procedure area must be equipped with an ultraviolet air purifier appropriately sized to the room based on the square footage and the manufacturer's recommendations.
- e. The body artist shall wear sterile gloves when coming into contact with sterile instruments during the procedure.

5. Specific regulations for subdermal implants:

- a. The client having subdermal implant procedures performed must be eighteen years of age or older. A parent or guardian may not consent to have branding performed on a minor.
- b. The body artist shall wear disposable sleeves.
- c. The body artist shall wear sterile gloves when coming into contact with sterile instruments during the procedure.
- d. Any object that is not able to be inserted through a single piercing channel and which requires the creation of a surgical pocket that must be closed with sutures is considered a medical procedure and may only be performed under the supervision of a licensed medical professional, as defined in this chapter. A licensed medical professional acting within their lawful scope of practice is not required to be licensed under this chapter.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-05. Public notification requirements.

- 1. A current body art establishment license must be posted in a prominent and conspicuous area where it can be readily observed.
- 2. Written public educational information about the risk of body art procedures and aftercare information according to section 33-41-01.1-07 that has been approved by the department must be made available to the public upon request.

3. The body art establishment shall publicly display the name, address, and phone number of the public health entity which inspected the body art establishment, and the procedure for filing a complaint.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-06. Documentation requirements.

1. Each body art establishment shall have written operating procedures. The written operating procedures must be maintained, in physical or digital form, and must be available to the department upon request. The written operating procedures must include:
 - a. A copy of the exposure control plan that includes written procedures on how the operator eliminates or minimizes personnel and client exposure to blood or other potentially infectious material;
 - b. A description of all body art procedures performed;
 - c. An inventory of all instruments and sharps and whether these items are reuseable or presterilized, including names of manufacturers and serial, batch, or lot numbers, if applicable. Invoices, purchase orders, or receipts satisfy this requirement;
 - d. Records relating to jewelry used for initial piercings and other biocompatible objects used in body art required under section 33-41-01.1-03;
 - e. An inventory of inks, pigments, or dyes used for all body art procedures, including names of manufacturers, brands, and serial, batch, or lot numbers, if applicable. Invoices, purchase orders, or receipts satisfy this requirement;
 - f. Safety data sheets for all chemicals stored on the premises;
 - g. Disinfection and sterilization documentation required under section 33-41-01.1-08; and
 - h. Regulated waste documentation required under section 33-41-01.1-11.
2. Client records must be stored in a secure location on the premises and kept confidential to prevent access by the public or unauthorized personnel. Client records must include:

- a. Customer informed consent and release forms as required under section 33-41-01.1-07;
 - b. Risk notification information for each body art procedure;
 - c. Any complaint of injury form; and
 - d. Aftercare instructions for each body art procedure offered as required under section 33-41-01.1-07.
3. Personnel records must be stored in a secure location to prevent access by the public or unauthorized personnel. After one year, files for previous employees, contractors, or agents of the body art establishment may be retained off-site for a minimum of three years past employment termination.
- a. Personnel records must include:
 - (1) Full name;
 - (2) Job title;
 - (3) Exact duties;
 - (4) Date of employment;
 - (5) Date of birth, showing at least eighteen years of age;
 - (6) Primary residence address;
 - (7) Contact phone number;
 - (8) E-mail address; and
 - (9) Copy of government-issued photo identification card.
 - b. Personnel training records must include:
 - (1) Trainee's name;
 - (2) Date of the training session;
 - (3) Individuals conducting the training;
 - (4) Names and job titles of all individuals attending the sessions;

- (5) Name of qualified training provider and trainer qualifications as approved by the regulatory entity with jurisdiction; and
- (6) Record of current cardiopulmonary resuscitation and first aid certification in accordance with renewal requirements of the certifying organizations or training provider and annual bloodborne pathogen training.

c. Personnel medical records:

- (1) Body art establishments shall maintain records for each employee with occupational exposure as required by title 29, Code of Federal Regulations, part 1910, section 1030 and the department.
- (2) All medical records must be stored in a manner that prohibits access from unauthorized personnel, such as a locked file cabinet, locked room, or password-protected files, and may not be disclosed without the employee's express written consent to any individual within or outside the premises, except as may be required by law.
- (3) Medical records must be maintained for the length of time as dictated by title 29, Code of Federal Regulations, part 1910, section 1020.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-07. Informed consent and release form.

- 1. Prior to a body artist performing body art on a client, an informed consent and release form must be completed and retained as specified in section 33-41-01.1-06. The informed consent and release form must be offered to the client in verbal and written formats. A physical or digital copy of the signed written informed consent and release form must be offered to the client. The informed consent and release form must include the following:
 - a. A risk notification section that provides information detailing the risks and possible consequences of the body art procedure, such as complications including infection, allergic reaction, and scarring.
 - b. A client evaluation section that evaluates the client's condition for receiving body art. This section must include the following language: "Consult a physician prior to the procedure if you have any concerns about any of the questions below:"

- (1) Have you eaten within the past four hours?
- (2) Are you under the influence of drugs or alcohol?
- (3) Have you ingested anticoagulants, antiplatelet drugs, or nonsteroidal anti-inflammatory drugs such as aspirin or ibuprofen in the last twenty-four hours?
- (4) Have you ingested any medication that may inhibit the ability to heal a skin wound?
- (5) Do you have any allergies or adverse reactions to dyes, pigments, latex, iodine, or other such products?
- (6) Do you have hemophilia, epilepsy, a history of seizure, fainting, narcolepsy, or other conditions which could interfere with the body art procedure?
- (7) Do you have a history of any diseases, including skin diseases, that might inhibit the healing of the body art procedure?
- (8) Do you have any communicable diseases that could be transferred to another person during the procedure?
- (9) Do you have diabetes, high blood pressure, heart condition, heart disease, or any other conditions that could interfere with the body art procedure?
- (10) Are you or have you been pregnant within the last 3 months?"

c. An aftercare section which must:

- (1) Be submitted with the initial license application in accordance with section 33-41-01.1-15 for every type of body art procedure offered in the licensed body art establishment for approval by the department;
- (2) Be submitted to the department for approval for any body art procedure added after the initial license was issued prior to performance of the body art procedure;
- (3) Provide information to the client about caring for the body art after the procedure and the surrounding area of the procedure site;

(4) Advise the client to consult a licensed medical professional, if required; and

(5) Contain the name, address, and phone number of the body art establishment.

d. A client information section which must include the following:

(1) Client name as it appears on government-issued photo identification card;

(2) Client signature;

(3) Client date of birth as it appears on government-issued photo identification card;

(4) Client residential address;

(5) Client phone number;

(6) A copy of the client's government-issued photo identification card with birthdate; and

(7) If the client is a minor, the name, signature, and government-issued photo identification card of the minor's parent or guardian giving written consent to the body art procedure and who will be physically present for the body art procedure performed on the minor. If a guardian is giving written consent, a copy of the guardianship letters or order must be retained with the minor's record.

2. Each body artist shall record the following information regarding the body art procedures performed on the client:

a. First and last name of body artist who performed the body art procedure;

b. Type of body art procedure;

c. Location on body;

d. Design, if applicable;

e. Jewelry styles and sizes used for initial piercing, if applicable;

- f. Expiration date, manufacturer, brand, batch, and lot number of all sterilized instruments used during the body art procedure that corresponds with the sterilization log for those instruments, package, or lot number which were applied to or inserted under the skin;
 - g. Expiration date, brand, color, batch, and lot number of all inks, dyes, and pigments used in the body art procedure;
 - h. Date and time the body art procedure was performed;
 - i. Any complications which occurred during the body art procedure; and
 - j. Signature of the body artist verifying the information provided.
3. An informed consent and release form statement, including a signature obtained from the client or, if the client is a minor, signatures obtained from the client and the client's parent or guardian, must confirm that the client:
- a. Is voluntarily obtaining services of the client's own free will and volition;
 - b. Has had the opportunity to read and understand the informed consent and release form;
 - c. Has the ability to ask questions about the procedure or the informed consent and release form; and
 - d. Has received and understands verbal or written aftercare.

History: Effective October 1, 2026.
General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35

33-41-01.1-08. Disinfection and sterilization procedures.

Each body art establishment operator shall establish written procedures for disinfection and sterilization of instruments and surfaces for the safety of personnel and clients, to maintain a clean and sanitary establishment, and to prevent cross-contamination by using aseptic technique, in addition to detailed training for personnel of the body art establishment. Documentation and records required under this section must be kept in accordance with section 33-41-01.1-06. Written procedures must include:

- 1. All surfaces used in the body art procedure area must be smooth, free of nicks, cuts, and tears, easily cleanable, and nonporous. Surfaces must be cleaned and disinfected with a disinfectant prior to and after the body art procedure.

2. All surfaces of equipment and furnishings that come into contact with the body artist during a body art procedure must be covered with a protective, impermeable barrier. Barriers must be single-use and discarded after each client.
3. All equipment used to clean and sterilize body art materials and reusable instruments must be suitable for their intended use. The equipment and devices must be used, cleaned, and maintained according to the manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the equipment must be available for inspection by the department when available from the body art establishment operator.
4. When participating in any disinfection or sterilization procedures, individuals shall wear personal protective equipment that provides adequate protection from exposure or potential exposure to blood and other potentially infectious materials.
5. When applicable, the body art establishment operator shall develop written procedures for the methods used to clean, decontaminate, sterilize, package, label, and store all reusable instruments, tools, and materials used in body art procedures after each use and prior to use.
6. An autoclave, ultrasonic cleaner, and sterilization room are not required if the body art establishment uses only presterilized disposable instruments, presterilized body art materials, and presterilized supplies.
7. All instruments used for body art procedures must remain stored:
 - a. In sterile packages marked with the cycle number until just prior to a body art procedure; or
 - b. Cleanly in containers and ready for sterilization immediately prior to the procedure.
8. Sterile instruments and body art materials may not be used if the package has been compromised. Sterile instruments and body art materials may not be used after the expiration date without first reprocessing and resterilizing. Body art instruments and materials must be disposed of in an appropriate waste or sharps container.
9. Records of instruments purchased presterilized must be maintained for at least three years.
10. Each body art establishment operator shall demonstrate that the autoclave

used is capable of attaining sterilization by monthly biological monitoring or spore tests. These tests must be verified through an independent certified laboratory. Additionally, the operator shall ensure that a type 5 integrator is used for each sterilization cycle, validating proper time, temperature, and steam under pressure. A license may not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the department. These test records must be retained for at least three years and made available to the department upon request.

11. The body art establishment operator shall develop a written procedure for responding to a positive spore test and shall document remediation steps in the sterilization log for every reusable instrument and tool impacted. This includes repeat testing, dates, and timeframes the autoclave was removed from service, and records indicating the autoclave has been inspected and repaired by a factory-authorized service professional.

a. In the sterilization log, document procedures taken to remedy the positive spore test.

b. The following are required if the repeat spore test is positive:

(1) The autoclave may not be used until it has been inspected or repaired and the specific reason for the positive test has been determined by a factory authorized service professional certified to repair and maintain the specific autoclave at issue;

(2) The autoclave must pass a spore test before being put back into service after repairing or relocating; and

(3) The body art establishment shall maintain records of sterilization cycles, maintenance of the autoclave, and spore tests in accordance with this chapter.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-09. Preparation and care of the procedure site.

1. Any surface of the skin or mucosa to receive a body art procedure must be intact and free from suspected abnormalities of the skin or mucosa, such as suspected rash, visible infection, sunburn, or moles.

2. Glove Usage:

a. Prior to, during, and after a body art procedure, the body artist shall wear gloves and use aseptic technique to ensure that the

instruments and gloves are not contaminated, including:

- (1) When setting up the procedure area touching containers, ink bottles, barrier films, exteriors of sterile packaging, and while assembling tattoo machines and needles;
- (2) When prepping skin, applying stencils, or drawing designs on the skin;
- (3) When performing the procedure;
- (4) Once the procedure is completed, cleaning, applying aftercare, or bandaging to the procedure site; and
- (5) When tearing down and disinfecting the procedure area.

b. The gloves must be immediately discarded and the body artist's hands must be washed after the completion of each procedure, when gloves worn for a procedure are torn, punctured, or otherwise compromised, or at any other time when necessary to prevent cross-contamination.

3. Before a body art procedure is performed, the procedure site must be prepped with an antiseptic in accordance with the manufacturer's instructions.
4. If shaving is necessary, it must be done before skin prep, and a single-use disposable razor must be used. After use, razors must be placed immediately into a sharps container.
5. In the event of bleeding, all products used to stop the flow of blood or to absorb blood must be a sterile, single-use item that is disposed of immediately after use in appropriate covered containers.
6. Any single-use items that contact the client must meet the requirements outlined in section 33-41-01.1-10.
7. Any products portioned out for the client must be discarded upon completion of the body art procedure.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-10. Requirements for single-use items.

1. Single-use items may not be used on more than one client for any reason.

After use, all single-use needles, razors, and other sharps must be immediately disposed of in approved sharps containers.

2. All products applied to the skin, including body art stencils, pens, markers, and any other items that are used to mark the skin, must be single-use and disposable. Products used in the application of stencils must be dispensed and applied on the area to be tattooed with a suitable clean, single-use product and used in a manner to prevent contamination of the original container and its contents. The clean, single-use product must be used only once and then discarded.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-11. Regulated waste.

Each body art establishment operator shall develop written procedures to ensure that personnel are trained to safely handle and dispose of contaminated needles, sharps, blood, and other potentially infectious material as required for regulated waste. All regulated waste management records, pickup receipts, and documentation must be maintained in accordance with section 33-41-01.1-06. The regulated waste written procedures must include the following requirements:

1. Written procedures to safely handle, store, label, and dispose of contaminated sharps and other regulated waste, in addition to detailed training for personnel of the body art establishment.
2. All body art establishments shall register as a regulated waste-generating facility.
3. Any waste, including biohazardous waste, mixed with regulated waste, must be managed as regulated waste.
4. Contaminated waste that does not release liquid blood or body fluids or that may release dried blood when compressed or handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods approved for municipal solid waste.
5. Bags used for regulated waste, other than sharps, must be packaged and sealed at the point of origin in a red biohazard bag that is labeled with the international biohazard symbol and the name and address of the body art establishment. A letter from the manufacturer of the biohazard bags used in the establishment must be kept on file on the premises.
6. Sharps containers:

- a. Sharps must be discarded at the point of origin into single-use or reusable sharps containers. Sharps may not be placed directly into double-walled corrugated containers.
- b. Sharps containers must be sealed when full. A sharps container is considered full when materials placed into it reach the designated fill line or, if a fill line is not indicated, when additional materials are not able to be placed into the container without cramming.
- c. Permanently mounted sharps container holders must bear the international biohazard symbol, if this information on the sharps container is concealed by the sharps container holder or mount.
- d. Reusable outer containers must be rigid and constructed of smooth, easily cleanable materials. Outer containers must be decontaminated after each use.

7. Storage:

- a. Regulated waste must be contained, stored, transported, and disposed of in accordance with chapter 33.1-20-12, including the requirements of title 29, Code of Federal Regulations, part 1910, section 1030.
- b. Indoor storage areas must:
 - (1) Have restricted access;
 - (2) Be designated by signage;
 - (3) Be located away from pedestrian traffic;
 - (4) Be insect, rodent, and vermin free;
 - (5) Be constructed of smooth, easily cleanable materials that are impervious to liquids; and
 - (6) Be maintained in a sanitary condition.
- c. Outdoor storage areas, including containers and trailers, must meet the requirements of subdivision b and be secured against vandalism and unauthorized entry.

8. Containment:

- a. Packages of regulated waste must remain sealed until picked up by

a licensed transporter.

b. Ruptured or leaking packages of regulated waste must be placed into larger packaging without disturbing the original seal. All packages containing regulated waste must be visibly identifiable with the international biohazard symbol and labeled as specified in subsection 5.

9. Transportation of regulated waste must comply with chapter 33.1-20-12.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-12. Requirements for premises.

1. All personnel working in any body art establishment must be at least eighteen years of age.

2. The body art establishment license must be posted in a prominent and conspicuous location in the body art establishment where it can be easily seen.

3. Each body art establishment shall comply with state and local building, fire, electrical, plumbing, water system, and wastewater system codes and ordinances and ensure that the general condition of the premises is maintained in good repair.

4. All body art establishments and body art procedure areas located inside a body art establishment must be completely separated by solid partitions or walls extending from floor to ceiling from any room used for habitation by an individual, any food establishment or room where food or beverages are prepared, any cosmetic, nail, or hair salon, esthetician services, laser services including laser tattoo removal, or any other such activity that could cause potential contamination of work surfaces.

5. Walls, floors, ceilings, and other furnishings, such as lamps, countertops, drawers, and shelves on the premises must be maintained in a clean condition. All procedure areas and workstation surfaces are only used in the performance of body art procedures, including dividers, client chairs, and benches, and must be constructed of materials that are easily cleanable, and must be cleaned and disinfected after each client.

6. No reusable barriers may be employed for body art procedures.

7. Each body art procedure area must be equipped with a separate, readily accessible handwashing sink that is supplied with soap and disposable

paper towels in dispensers. A handwashing sink that is centrally located within a shared workroom or procedure area must serve not more than three body artists and must be separate from a restroom.

8. If reusable instruments are used in a body art establishment, a separate sterilization room is required. The sterilization room must meet the following requirements:
 - a. The sterilization room must be enclosed or arranged to maintain proper separation and safe distance from procedure areas to prevent cross-contamination and must be closed to the public;
 - b. The sterilization room must only be used for cleaning, disinfecting, sterilizing, storage, and related tasks;
 - c. A sink must be used only for cleaning contaminated instruments. This sink may not be used for handwashing;
 - d. A covered ultrasonic cleaner or automated instrument washer must be included;
 - e. Cabinets or drawers located within the sterilization room must be made of smooth, nonporous, wipeable materials;
 - f. No body art procedures, retail sales, or other job tasks may occur within the sterilization room; and
 - g. The covered ultrasonic cleaner and the sink used for rinsing and scrubbing contaminated instruments must be separated from the autoclave to prevent contamination. Plexiglass, stainless steel, or other nonporous barriers to prevent cross-contamination are allowed.
9. There must be a minimum of one restroom with a handwashing sink accessible to patrons. This handwashing sink may not be used for any other purposes.
10. All body art establishments must have access to a service sink or curbed cleaning facility equipped with a floor drain and conveniently located for the disposal of mop water or similar liquid waste.
11. There must be a minimum of forty square feet [3.72 square meters] of floor space for each procedure area in the body art establishment or adequate space as otherwise approved by the department.
12. Ultrasonic cleaners used for cleaning instruments or other contaminated

items are not allowed in the workstation. Ultrasonic cleaners used only for cleaning non-contaminated jewelry or other non-contaminated items are allowed in the workstation.

13. A lined waste receptacle must be provided in every procedure area and restroom and must be kept clean.
14. The body art establishment shall offer an area secluded from public view for clients requesting privacy. If a curtain or partition is used, it must be in compliance with this chapter.
15. The body art establishment shall have mechanical ventilation installed and maintained in compliance with all applicable local and state building codes and in accordance with the manufacturer's specifications.
16. The body art establishment shall have an artificial light source equivalent to at least twenty lumens per square foot three feet [0.91 meters] off the floor. Where the body art procedure is being performed and where instruments and sharps are assembled, there must be an artificial light source equivalent to at least one hundred lumens per square foot.
17. No animals of any kind are allowed in a body art establishment except for the following:
 - a. Service animals may accompany an individual with a disability in all areas of the body art establishment; and
 - b. Fish aquariums are only allowed in waiting rooms. Fish aquariums must contain only aquatic species that can survive underwater for a minimum of forty-eight hours.
18. The body art establishment must be free of pests including insects, rodents, and vermin.
19. All noncontaminated instruments must be stored in a dry, closed cabinet, drawer, or tightly covered container suitable for protecting the contents from moisture and dust and reserved for the storage of such instruments.
20. Smoking and vaping are prohibited in all indoor areas.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-13. Temporary body art establishments.

1. Unless otherwise provided in this section, temporary body art

establishments and temporary body art establishment licenses are subject to the same requirements as body art establishments and body art establishment licenses.

2. Temporary body art establishments shall meet the following requirements:

- a. A temporary body art establishment shall be equipped to properly sterilize instruments and provide evidence of a spore test performed on sterilization equipment no later than thirty days prior to the date of the event; otherwise, only single-use, prepackaged, sterilized instruments marked with an expiration date, lot number, and method of sterilization shall be used;
- b. A temporary body art establishment shall have the ability to clean and disinfect the body art procedure area. There must be at least forty square feet [3.72 square meters] of floor space for each body artist or adequate space as determined and approved by the department;
- c. There must be at least one hundred foot-candles of light at the level where the body art procedure is being performed;
- d. Flooring must be a smooth and non-absorbent surface that can be cleaned and disinfected or disposed of;
- e. Temporary body art establishments shall provide enough temporary handwashing sinks with running water to adequately service the number of body artists present;
- f. Temporary body art establishments shall supply a municipal solid waste receptacle, a regulated waste receptacle, and a sharps container within the procedure area or as close as practicable to where sharps are used; and
- g. Temporary body art establishments shall have a written plan for the removal of the regulated waste by a licensed transporter.

3. A temporary body art establishment must be inspected by the department and a temporary body art license must be issued prior to the performance of any body art procedures.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-14 Mobile body art establishments.

1. Unless otherwise provided in this section, a mobile body art establishment is subject to the same requirements as a body art establishment.
2. Mobile body art establishments shall meet the following requirements:
 - a. Body art procedures performed in a mobile body art establishment must be done only from an enclosed vehicle such as a trailer or mobile vehicle. No body art procedures may be performed outside of the enclosed vehicle;
 - b. The enclosed vehicle must:
 - (1) Contain and store all equipment, instruments, tools, and furnishings;
 - (2) Provide adequate space to safely perform body art and execute operating plans;
 - (3) Adequately and safely operate and meet the requirements of this chapter; and
 - (4) Not be dependent on any outside services in order to meet the requirements of this chapter;
 - c. The mobile body art establishment must be maintained in a clean and sanitary condition at all times. Doors must be self-closing and tight-fitting. Openable windows must have tight-fitting screens;
 - d. If the mobile body art establishment does not exclusively use single-use disposable instruments, equipment, and supplies, then reusable instruments must be clean and sterilized using approved sterilization equipment available in accordance with all requirements of section 33-41-01.1-08 and a sterilization room in accordance with section 33-41-01.1-12;
 - e. The operator may only use the mobile body art establishment for the purpose of performing body art procedures. No habitation or food preparation is allowed inside the vehicle;
 - f. The handwashing sink must be plumbed with hot and cold water at a temperature of at least one hundred degrees Fahrenheit [38 degrees Celsius] through a mixing valve or combination faucet used solely for washing hands, equipped with liquid soap, disposable paper towels in dispensers, and a wastebasket. An adequate supply of potable water must be maintained at all times during operation;

- g. All liquid wastes must be stored in an approved holding tank with a capacity at least fifteen percent greater than the capacity of the onboard potable water supply tank. Liquid wastes must be disposed of at a site approved by the department; and
- h. Restroom facilities must be available on-site for public use. A handwashing sink must be available inside the restroom cubicle. The handwashing sink must be supplied with hot and cold running water under pressure to a mixing-type faucet, liquid soap dispensed from a nonreusable container, and paper towels in a dispenser. Restroom doors must be self-closing and adequate ventilation must be available.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-15. License requirements.

- 1. A body art establishment may not operate without first having obtained a license issued by the department under North Dakota Century Code section 23-01-35.
- 2. A body art establishment, temporary body art establishment, or mobile body art establishment may only provide those body art procedures which are included on the initial application or renewal application.
- 3. The department shall issue a license to an applicant that meets all of the requirements of North Dakota Century Code sections 12.1-31-13 and 23-01-35 and this chapter.
- 4. An applicant shall submit an application for a license to the department in the form and manner prescribed by the department.
- 5. An application is not complete until all required information and verifications are submitted to the department.
- 6. The department may declare an application withdrawn if an applicant fails to submit all required information and verifications within thirty days of the department's notification to the applicant the application is incomplete.
- 7. Types of licenses:
 - a. Body art establishment;
 - b. Mobile body art establishment; and

c. Temporary body art establishment.

8. Body art establishment license: For an application to be complete, an applicant for a body art establishment license shall submit the following information to the department:

a. Plans and specifications: Whenever a body art establishment is newly constructed, purchased, or an existing body art establishment is remodeled, a body art establishment operator shall submit to the department properly prepared plans and specifications for such construction or remodeling for review and approval by the department before construction or remodeling begins. The plans and specifications must be submitted a minimum of thirty days prior to the projected start date or event, and must include:

(1) The proposed layout, arrangement, and construction materials, paying particular attention to all building and fire codes required by law and regulations;

(2) Additional documentation as required by the department which may include:

(a) Documentation of wastewater system, water system, ventilation system, and local planning and zoning approval from the regulatory authority;

(b) Certifications stating all work was completed in accordance with applicable plumbing, electrical, building, and fire codes;

(c) An inventory of all cleaning and sterilization equipment as it is to be used, if applicable; and

(d) The layout of the reception area, the procedure areas, the cleaning and sterilization area, the storage area, and the toilet facilities; and

(3) The department shall approve the plans and specifications in writing if the requirements of North Dakota Century Code section 23-01-35 and this chapter are met and proceed with processing the license application. Failure to submit plans and specifications or failure to obtain written approval of plans and specifications by the department may result in the denial of an application for licensure;

b. A signed body art establishment license application and applicable

license fee;

- c. A statement of all types of body art procedures being offered must be indicated and aftercare instructions for each body art procedure must be provided. After initial licensure, the operator shall inform the department prior to offering any different types of body art procedures;
 - d. Record of current cardiopulmonary resuscitation and first aid certification and bloodborne pathogen training for body artists performing body art procedures, obtained from recognized training providers or organizations;
 - e. A copy of written operating procedures, upon request;
 - f. The license fee for a body art establishment in accordance with section 33-41-01.1-20;
 - g. Personnel records required under section 33-41-1.01-06 must be available for review within ten days of opening and before any body art procedures are performed on clients in the body art establishment. All personnel working in any body art establishment are required by state and federal law to be a minimum of eighteen years of age; and
 - h. If using reusable instruments, spore test records, as required under section 33-41-01.1-08, shall be provided before any body art procedures are performed on clients in the body art establishment, and annually at the time of license renewal.
9. Temporary body art establishment license application: For an application to be complete, an applicant for a temporary body art establishment license shall submit the following information to the department:
- a. A signed temporary body art establishment license application;
 - b. All information necessary for an application for a body art establishment as required by subsection 8;
 - c. If applicable, documentation demonstrating that the applicant is currently affiliated with a fixed body art establishment that is licensed by the department, and that the temporary site complies with North Dakota Century Code section 23-01-35 and this chapter; and
 - d. The license fee for a temporary body art establishment in accordance with section 33-41-01.1-20.

10. A temporary body art establishment license expires after fourteen days or the conclusion of the special event, whichever is sooner. A temporary body art establishment license is only valid for the dates specified on the license, and the licensed temporary body art establishment may only be operated on those dates.

11. Mobile body art establishment license application: For an application to be complete, an applicant for a mobile body art establishment license shall submit the following information to the department:
 - a. A signed mobile body art establishment license application;
 - b. All information necessary for an application for a body art establishment as required by subsection 8; and
 - c. The license fee for a mobile body art establishment in accordance with section 33-41-01.1-20.

12. License Renewal:
 - a. A body art establishment license automatically expires annually on December thirty-first unless renewed.
 - b. A license may be renewed by December thirty-first of each year by submitting the renewal application provided by the department and paying the license fee required under section 33-41-01.1-20.
 - c. If the completed renewal application and fee are not received by December thirty-first, the license expires and the body art establishment may not operate.
 - d. Within sixty days after December thirty-first, an expired license may be renewed by submitting the renewal application, renewal fee, and a late fee required under section 33-41-01.1-20.
 - e. If the renewal application, renewal fee, and a late fee are not received within sixty days after December thirty-first, the license may not be renewed, and the applicant shall apply and meet the requirements for initial licensure to be granted a license.
 - f. The department may extend the renewal deadlines for an application providing proof of hardship rendering the applicant unable to meet the deadline.

13. A license for a body art establishment shall not be transferable.

14. A license for a body art establishment shall be valid for the services or locations identified therein.
15. It is the responsibility of the body art establishment operator to ensure that all personnel comply with the requirements of North Dakota Century Code section 23-01-35 and this chapter.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-16. Prohibitions.

1. The department may prohibit the use of any procedure, device, product, or modality that the department determines to be unsafe or beyond the scope of practice authorized under North Dakota Century Code section 23-01-35 and this chapter. The authority applies to both currently available procedures and devices, as well as new or emerging practices in industry.
2. Body artists are not allowed to perform genital or nipple piercings on individuals under eighteen years of age. A parent or guardian may not consent to genital or nipple piercings performed on a minor.
3. Videotaping, photographing, or other recording, including live social media streaming, of body art procedures, whether during or after the procedure, is prohibited without the client's consent. If the client is a minor, consent from the parent or legal guardian is also required.
4. Body art procedures may not be performed on an individual who appears to be visibly impaired or otherwise unable to provide informed consent.
5. A body artist may not perform body art procedures while under the influence of alcohol or drugs.
6. A body art establishment may not operate without first obtaining the necessary licenses and approvals from the department as required by North Dakota Century Code section 23-01-35 and this chapter.
7. It is a violation of North Dakota Century Code section 23-01-35 and this chapter to obtain or attempt to obtain any body art establishment license by means of fraud, misrepresentation, or concealment.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-17. Inspection.

1. The department shall inspect each body art establishment for compliance with state law and this chapter prior to issuing a license to any body art establishment, and then at intervals deemed necessary by the department.
 - a. Department representatives must be granted access to the premises of a body art establishment during normal hours of operation, including access to client and personnel records.
 - b. The department must be allowed entry to the body art establishment at will when the establishment is occupied, whether for a routine inspection or not, including the need to investigate complaints or compliance.
2. Body art establishment inspections must be conducted at a frequency determined as often as necessary throughout the year to ensure compliance with North Dakota Century Code section 23-01-35 and this chapter and to ensure the health and safety of the general public.
3. Department representatives shall properly identify themselves upon entering a body art establishment to conduct an inspection.
4. It is a violation of North Dakota Century Code section 23-01-35 and this chapter for the operator or personnel in a body art establishment to knowingly:
 - a. Conceal, withhold, or falsify records or evidence of a product, practice, circumstance, or event that could endanger the health and safety of guests, clients, employees, or the general public, and that requires immediate correction;
 - b. Interfere with the performance of the duties of the department; or
 - c. Make a false statement, representation, certification, record, report, or otherwise falsify information required to be submitted or maintained pursuant to North Dakota Century Code section 23-01-35 and this chapter.
5. A physical or digital copy of the inspection report shall be furnished to the license holder or operator of the body art establishment.
6. If, after the inspection or investigation, the department finds that a body art establishment operator is in violation of North Dakota Century Code section 23-01-35 and this chapter, the department shall advise the body art establishment operator in writing of the violations and instruct the operator

to take specific steps to correct such violations.

- a. If at any time the department has reasonable cause to suspect that public health may be at risk, it may place conditions on the license of a body art establishment;
 - b. The department shall notify the body art establishment license holder and the operator in writing of the conditions; and
 - c. A body art establishment shall comply with all license conditions until the department has conducted an inspection, has determined that the license conditions are no longer necessary, and has issued an order removing the license conditions.
7. A body art establishment shall immediately discontinue operations of the affected area and body art procedure, use of an affected product, or unapproved or malfunctioning device or equipment upon discovery that an imminent health hazard exists. Each operator shall notify the department by phone or email within twenty-four hours of identifying an imminent health hazard.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-18. Denial, suspension, revocation, and disciplinary action.

1. The department may deny a license application or, after notice and a hearing in accordance with North Dakota Century Code chapter 28-32, suspend, revoke, or take other disciplinary action against the license of an individual who fails to comply with this section or with any of the rules adopted by the department.
2. Before the department takes disciplinary action against a licensee, the department shall notify the licensee in writing of the reason disciplinary action is being considered and shall provide a reasonable amount of time for response. The notice must be in writing and delivered personally by an inspector of the department or sent by registered or certified mail.
3. For repeated violations of North Dakota Century Code section 23-01-35 or this chapter, or for interference with department personnel in the performance of their duties, a license may be permanently revoked after a hearing in accordance with North Dakota Century Code chapter 28-32.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-19. Waiver provision.

Any provisions of sections 33-41-01.1-08, 33-41-01.1-11, 33-41-01.1-12, 33-41-01.1-13, or 33-41-01.1-14 may be waived by the department in specific instances, provided such a waiver does not adversely affect the health and safety of the clients and operators and compliance with the provision would not result in an unreasonable hardship upon the body art establishment. A waiver must be in writing for a specific provision. A refusal to grant a waiver is not subject to an appeal.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35

Law Implemented: NDCC 23-01-35

33-41-01.1-20. License fees.

The following license fees must be submitted to the department with the appropriate application for initial licensure or renewal:

1. For a body art establishment, one hundred sixty dollars;
2. For a mobile body art establishment, one hundred sixty dollars; and
3. For a temporary body art establishment that operates a special event at a fixed location for not more than fourteen consecutive days or the duration of the special event, whichever is less:
 - a. Fifty dollars for not more than five temporary or guest body artists;
 - b. One hundred dollars for six to ten temporary or guest body artists; or
 - c. One hundred fifty dollars for more than ten temporary or guest body artists.
4. For an initial body art license application, an administration fee of one hundred dollars is required in addition to fifty percent of the annual license fee when a plan review application is required. The license application administration fee does not apply to temporary body art establishments.
5. For a proprietor, a plan review application fee of fifty percent of the annual license fee when a plan review application is required.
6. For any license renewed after December thirty-first, a late fee equal to fifty percent of the annual license fee must be assessed in addition to the license fee.

History: Effective October 1, 2026.

General Authority: NDCC 23-01-35
Law Implemented: NDCC 23-01-35