

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH ADMINISTRATION

BODY ART FACILITIES

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 306 PA 1969. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of health and human services by section 2233 of 1978 PA 368, MCL 333.2233; by section 2235 of 1978 PA 368, MCL 333.2235; and by section 13108 of 2010 PA 375, MCL 333.13108, and by Executive Reorganization Orders No. 2015-1 and No. 2015-4.)

R 333.13101, R 333.13102, R 333.13103, R 333.13104, R 333.13105, R 333.13106, R 333.13107; R 333.13108; R 333.13109; R 333.13110; R 333.13111; R 333.13112; R 333.13113; R 333.13114; R 333.13115; R 333.13116; R 333.13117; and R 333.13118 are added to the Michigan Administrative Code as follows:

PART I. DEFINITIONS

R 333.13101. Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means 2010 PA 375, MCL 333.13101 to 333.13112.

(b) "Affiliated temporary body art facility" is a temporary facility that is affiliated with a licensed body art facility in this state.

(c) "Aftercare instructions" means verbal and written instructions given to the client, specific to the body art procedure or procedures rendered regarding the care of the body art and surrounding area. These instructions shall include information about when to seek medical treatment, if necessary, as well as notice that the individual may be able to donate blood within the standard deferral period if the individual presents a copy of his or her body art facility's client record to the blood donor facility, based on local blood donor facility policy.

(d) "Antiseptic" means an agent that destroys pathogenic microorganisms on human skin or mucosa.

(e) "Antibacterial" means anything that destroys bacteria or suppresses their growth or their ability to reproduce. Examples include heat, chemicals such as chlorine, and antibiotic drugs.

(f) "Antimicrobial" means a substance that kills or inhibits the growth of microorganisms such as bacteria, fungi, or protozoans. Antimicrobial drugs either kill microbes or microbicidal; or prevent the growth of microbes or microbistatic. Antimicrobial is a general term that refers to a group of drugs that includes antibiotics, antifungal, antiprotozoal, and antiviral.

August 31, 2016

(g) “Aseptic technique” means a set of specific practices and procedures performed under carefully controlled conditions with the goal of minimizing contamination by pathogens.

(h) “Blood-borne pathogens” means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

(i) “Body art technician” means an individual who performs 1 or more of the following actions:

- (i) Tattooing.
- (ii) Branding.
- (iii) Body piercing.

(j) “Body jewelry” means an adornment placed into a body piercing and comprised of various materials including metals, non-metals, and organic materials as provided in R 333.13112.

(k) “Body piercing” means the perforation of human tissue other than the ear for non-medical purposes.

(l) “Cleaning” means the removal of visible soil, organic material, or inorganic material from objects or surfaces and is usually accomplished by manual or mechanical means through water with detergents or enzymatic products.

(m) “Client” means a person undergoing any of the following procedures:

- (i) Tattooing.
- (ii) Branding.
- (iii) Body piercing.

(n) “Contaminated” means the presence or the reasonably anticipated presence of blood or other potentially infectious material on an item or surface

(o) “Contaminated sharps” means any contaminated object that can penetrate the skin including, but not limited to, tattoo needles, body piercing needles, and disposable razors.

(p) “Department” means the Michigan department of health and human services.

(q) “Disinfectant” means an environmental protection agency (EPA) - registered tuberculocidal chemical or physical agent that kills vegetative forms of microorganisms, but not necessarily all microbial forms such as bacterial spores.

(r) “Disinfection” or “disinfected” means the process that kills pathogenic and other microorganisms on inanimate objects by physical or chemical means. Disinfection kills most recognized pathogenic microorganisms but not necessarily all microbial forms, such as bacterial spores. Disinfection processes do not ensure the margin of safety standards associated with sterilization processes.

(s) “Dry heat sterilizer” means an apparatus used to sterilize supplies and equipment used in body art procedures through exposure to dry heat.

(t) “Equipment” means all machinery, including fixtures, containers, tools, devices, storage areas, sinks, and other apparatus used in connection with performing body art procedures.

(u) “Exposure” means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious material that may result from the performance of an individual’s assigned duties in the body art facility. It does not include incidental exposures which may take place on the job, which are neither

reasonably nor routinely expected, and which the individual is not required to incur in the normal course of employment.

(v) “Hand washing” means physically removing or reducing most microorganisms from the intact skin of the hands by performing all of the following actions:

- (i) Using warm running water and liquid soap.
- (ii) Using friction on all surfaces of the hands and wrists for at least 15 seconds.
- (iii) Drying hands with a clean, disposable paper towel.
- (iv) Turning off the faucet with a clean disposable paper towel.

(w) “Imminent danger” means a condition that could reasonably be expected to cause death, disease, or serious physical harm, immediately, or before the imminence of the danger can be eliminated through enforcement procedures otherwise provided.

(x) “Instruments” means needles, needles attached to the needle bars, body piercing needles, razors, scarification implements, and other devices that may come in contact with a client’s body or that may have possible exposure to bodily fluids during the body art procedure.

(y) “Local governing entity” means the following:

(i) In the case of a single county health department, the county board of commissioners.

(ii) In the case of a district health department, the county boards of commissioners of the counties comprising the district.

(iii) In the case of a district health department, that includes a single city health department, the county boards of commissioners of the counties comprising the district and the mayor and city council of the city.

(iv) In the case of a single city health department, the mayor and city council of the city.

(v) In the case of a local health department serving a county within which a single city health department has been created, the county board of commissioners elected from the districts served by the county health department.

(z) “Medical waste” means any of the following that are not generated from a household, a farm operation or other agricultural business, a home for the aged, or a home health care agency:

(i) Cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture, dishes and related devices.

(ii) Liquid human and animal waste, including blood and blood products and body fluids, but not including urine or materials stained with blood or body fluids.

(iii) Pathological waste.

(iv) Sharps.

(v) Contaminated wastes from animals that have been exposed to agents infectious to humans, primarily research animals.

(aa) “Mill certificate” means manufacturer documentation that its jewelry has been tested to American Society of Testing and Materials (ASTM) standards.

(aabb) “MIOSHA” means Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(~~b~~cc) “Non-affiliated temporary body art facility” is a temporary facility that is not affiliated with any licensed body art facility in this state.

(eedd) “Non-critical violations” means an infraction of these rules that most likely will not result in an imminent health danger.

(ddee) “Other potentially infectious material” or “OPIM” means human body fluids including, but not limited to, any body fluids visibly contaminated with blood, saliva in oral body art procedures, semen, vaginal secretions, and all body fluids where it is difficult or impossible to differentiate between body fluids.

(eeff) “Pathological waste” means human organs, tissues, body parts other than teeth, products of conception, and fluids removed by trauma or during surgery or autopsy or other medical procedure and not fixed in formaldehyde.

(ffgg) “Personal protective equipment” or “PPE” means specialized clothing or equipment that is worn by an individual working in a body art facility to protect him or her from a hazard. This does not include general work clothes, such as uniforms, pants, shirts, or blouses, which are not intended to function against a hazard, are not considered to be personal protective equipment.

(gghh) “Procedure area” means the physical space that is used by 1 body art technician at a time to perform a body art procedure on 1 client at a time, and that contains all procedure surfaces, equipment, and instruments to perform the body art procedure.

(hhii) “Procedure surface” means any surface utilized during the body art procedure that has the potential to become contaminated and that may require cleaning and disinfecting.

(iijj) “Scarification” is the production of scars and includes the injury of the skin involving scratching, etching, or cutting of designs to produce a scar on a human being for ornamentation or decoration.

(jjkk) “Scarification implement” means any instrument which intentionally alters human skin for the purpose of scarification.

(kkll) “Smoking” means the carrying, holding or inhalation by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

(Hmmm) “Steam autoclave” means an apparatus used to sterilize supplies and equipment used in body art procedures by direct exposure to saturated steam under pressure as a sterilant.

(nn) “Sterilize” or “sterilization” means the complete elimination or destruction of all forms of microbial life including bacterial spores.

(oo)) “Surface piercing” means any body piercings that takes place on the surface of the body under the epidermis but not to subcutaneous tissue. The surface piercing is done in areas which are not particularly concave or convex, where the piercing canal is under the surface of the skin with exit and entry points, which are perpendicular to the tissue. This procedure is performed utilizing a body piercing device, such as a piercing needle.

(pp) “Tattoo,” in addition to the definition in the act, includes scarification, cosmetic tattooing, and permanent make-up.

(qq) “Temporary body art convention” means a gathering of varied body artists representing owners or operators of separate body art facilities, licensed in or outside this state, who must obtain an individual temporary body art facility license issued by this state for an event lasting not more than 14 days.

(2) Terms defined in the act have the same meanings when used in these rules.

PART II. BODY ART FACILITY REQUIREMENTS; GENERAL

R 333.13102 Permitted procedures at licensed body arts facilities.

Rule 2. (1) Tattooing, branding, or body piercing, as defined by the act and these rules are the only procedures permitted within a body art facility. Medical procedures, such as tattoo removals, implants, silicone injections, and tongue splitting are governed by part 161 of 368 PA 1978, MCL 333.16101 to MCL 333.16349.

R 333.13103 Body art facility; applications; renewal licenses; temporary body art facility licenses.

Rule 3 (1) At the time of the application, the owner or operator shall pay to the department a nonrefundable application fee. Fee schedules are based upon the consumer price index and shall be published annually at the department's website at www.michigan.gov/bodyart.

(2) Upon submission of an application with fee payment for a body art facility license, the applicant will receive a receipt of payment for the licensing fee from the online application process or his or her cancelled check notification if application is mailed.

(3) Mobile units will not be licensed as statewide transitory units.

(4) Applications for licensure must be received not less than 30 days before tattooing, branding, or body piercing services are proposed to be provided.

(5) Applications and the required fee for temporary licenses must be received not less than 30 days before the first day on which tattooing, branding, or body piercing services are proposed to be provided at the temporary location and expires at 12 a.m. on the final date described on the temporary license. No services are to be performed until a compliance inspection has been completed by the local health department.

(6) The department shall send to the body art facility applicant a printed body art facility license issued by this state once the local health department has notified the department of a "pass" licensing inspection. Annual licenses and renewal licenses will be effective for the calendar year applied for and do not imply or guarantee a license of 365 days from initial approval.

(7) The license will be issued to a specific person at a specific location and is nontransferable.

(8) Annual and renewal licenses shall be posted in the body art facility.

R 333.13104 Body art facility; inspections.

Rule 4. (1) After passing a pre-opening inspection, the local health department may allow the body art facility to begin offering body art procedures to clients provided the body art facility has applied for licensure in this state.

(2) Inspection of the body art facility shall be conducted pursuant to MCL 333.13105. The local health department shall convey the results of that inspection to the department, within a reasonable time frame but no longer than 30 days after the inspection is completed.

(3) A site plan submission by the applicant to the local health department and a pre-opening inspection by the local health department representative responsible for the jurisdiction in which the body art facility is located are required for a new or a newly remodeled licensed body art facility.

(4) The local health department that is responsible for conducting inspections in the jurisdiction in which the body art facility is located shall be notified by the department of this completed application by an automated application inspection request e-mail. The local health department shall use the application inspection e-mail request sent by the department to schedule a body art facility inspection.

(5) Each local health department retains the right to perform additional inspections as deemed necessary.

(6) A detailed site plan will be reviewed by the local health department to determine whether the body art facility is in compliance with the facility requirements found in R 333.13115.

(7) The inspection of a body art facility shall document whether the body art facility has met the requirements in the act and rules and whether the facility should be licensed. This determination shall be noted on the inspection report form completed by the local health department and a copy of the signed and dated documentation shall be given to the owner or operator at the end of the inspection. A signed copy of a compliant department inspection report form can be posted temporarily in lieu of a state-issued license.

(8) The body art facility inspection report shall delineate inspection items that are both critical and non-critical violations. If both critical and non-critical violations are identified, the local health department shall mark them on the form and remedies for correction shall be noted in the comment section of the inspection form.

(9) Violations noted on the inspection report may require a re-inspection by the local health department to assure corrective action has been taken. If a re-inspection is needed, the time frame for the follow up inspection shall be noted in the comment section of the inspection report form.

(10) The local health department or its representative shall report back to the department the status of new annual license inspection or an annual renewal license inspection as either pass or fail and whether licensure is recommended by use of the department's online reporting process.

R 333.13105 Body art facility; license renewal.

Rule 5. (1) When submission for the renewal of a body art license application and licensing fee for a body art facility is received by the department, the department shall notify the local health department responsible for the jurisdiction in which the facility is located. The department shall notify license holders that their license is due for renewal by mail or email provided a facility email address is submitted.

(2) The renewal application and license fee shall be submitted on or by December 1st. Failure to do so will result in a late fee.

(3) The department shall issue a renewal license to the body art facility provided the facility has had a satisfactory inspection done within the prior 12 months.

(4) The local health department shall submit a compliant inspection report for the licensed facility before December 1 of the next renewal cycle.

(5) A detailed site plan is required before any remodeling changes are made to an existing licensing body art facility in this state.

R 333.13106 Body art facility requirements; disclosure; consent.

Rule 6. (1) Before starting a body art procedure, the body art facility shall provide to each client the department disclosure statement and notice for filing complaints advising clients of the risks and possible consequences of body art procedures and information on how to lodge complaints about the body art facility related to compliance with the department's rules for body art facilities.

(2) Each client shall sign a department-approved consent form that documents the client's receipt of the department-approved disclosure statement and notice for filing complaints.

PART III. EMPLOYEE REQUIREMENTS; RECORDS

R 333.13107 Body art facility requirements; training; MIOSHA standards.

Rule 7. (1) The licensee of a body art facility shall ensure that the body art facility as a whole, and any individual working in the body art facility with potential exposure to blood and OPIM, is in compliance with the MIOSHA Occupational Health Standard Part 554 "Bloodborne Infectious Diseases," as referenced in subrule (8) of this rule. A complete and current site-specific MIOSHA Bloodborne Infectious Diseases Exposure Control Plan for Employer with Limited Employee Exposure will satisfy this requirement.

(2) The licensee shall ensure that all employees working in the body art facility with potential exposure to blood and OPIM meet the training requirements in this rule.

(3) The licensee shall ensure that all employees working in the body art facility complete annual training and industry-specific training that include all of the following:

(a) Information on bloodborne pathogens.

(b) Bloodborne pathogen prevention.

(c) Potential exposure to blood and OPIM.

(d) MIOSHA Occupational Health Standard Part 554 "Bloodborne Infectious Diseases," as referenced in subrule (8) of this rule, and how it will be implemented in the body art facility.

(4) The licensee shall maintain on-site documentation of annual bloodborne pathogen training, as well as the yearly updated exposure control plan for review.

(5) Body art facilities shall comply with MIOSHA Occupational Health Standard Part 430 "Hazard Communication," as referenced in subrule (8) of this rule. This standard provides access to chemical information for employees whose jobs involve the routine use of hazardous chemicals.

(6) Body art facilities shall comply with Michigan right to know law, that includes the requirements for the communication of information regarding the safe handling of hazardous chemicals present in Michigan workplaces, in the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094, printed with the Occupational Health Standard Part 430 "Hazard Communication," as referenced in subrule (8) of this rule or for a copy of the entire act on the internet at website: www.legislature.mi.gov.

(7) Failure to comply with the requirements in this rule, including training, shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license, as an imminent danger.

(8) The following MIOSHA standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Occupational Health Standard Part 430 "Hazard Communication," R 325.77001 to R 325.77004.

(b) Occupational Health Standard Part 554 "Bloodborne Infectious Diseases," R 325.70001 to R 325.70016.

R 333.13108 Body art facility requirements; vaccination; violations considered critical violation.

Rule 8. (1) The owner or operator of the body art facility must make hepatitis B vaccination available to all individuals working in the body art facility with potential exposure to blood and OPIM. Vaccination is not required if any of the following apply:

(a) The individual provides records that he or she has previously received the complete hepatitis B vaccination series.

(b) Antibody testing has revealed that the individual is immune.

(c) Vaccine is contraindicated for medical reasons.

(2) The requirement in subrule (1) of this rule includes, but is not be limited to, the following individuals who do the following:

(a) Engage in tattooing and/or cleaning, disinfecting, or sterilizing tattoo instruments and/or equipment.

(b) Perform branding and/or cleaning, disinfecting or sterilizing branding instruments/equipment.

(c) Perform piercing and/or cleaning, disinfecting or sterilizing piercing instruments/equipment.

(3) Hepatitis B vaccination must be made available to the following:

(a) Individuals working in the body art facility prior to annual licensure of the body art facility

(b) Individuals who begin working at the body art facility within 10 days of being assigned to carry out responsibilities with potential exposure to blood and OPIM

(c) Individuals currently working at the body art facility within 10 days of being assigned to carry out responsibilities with potential exposure to blood and OPIM.

(4) Hepatitis B vaccination must be made available after training requirements are completed.

(5) All individuals who decline vaccination must sign a Vaccination Declination Form.

(6) Failure to follow the requirements in this rule shall be considered a critical violation which may lead to immediate closure, suspension and/or revocation of the body art facility license as an imminent danger.

R 333.13109 Requirements for body art technicians and other individuals who assist with body art procedures with potential exposure to blood and OPIM; violations considered critical violations.

Rule 9. (1) Body art technicians shall meet the requirements of section 3 of the youth employment standards act 1978 PA 390, MCL 409.103.

(2) Body art technicians shall not perform tattooing, branding, or body piercing on non-intact skin or non-intact mucosal surfaces.

(3) Body art technicians shall refuse body art services to any person who, in their opinion, is under the influence of alcoholic liquor or a controlled substance.

(4) Body art technicians, and any other individuals who assist with setting up for, performing, or cleaning up after body art procedures with the potential for exposure to blood and OPIM, shall maintain a high degree of cleanliness, conform to hygienic practices, including hand washing, and wear proper personal protective equipment with clean clothes when performing body art procedures.

(5) If the clothes of a body art technician, or any other individual who assists with setting up for, performing, or cleaning up after body art procedures with the potential exposure to blood or OPIM, become contaminated, contaminated clothing shall be removed as soon as possible in a way that prevents additional exposure to the contaminated areas of the clothing. Clean clothing shall be used prior to commencement of any further body art procedures.

(6) Body art technicians, or any other individuals who assist with setting up for performing, or cleaning up after body art procedures with the potential for exposure to blood and OPIM shall not be involved in body art procedures if they have open wounds, cuts, sores, burns, or skin abnormalities on the hand, or on any other portion of the body that may result in uncontained drainage that could result in contamination of body art instruments, equipment, procedure surfaces, or the client.

(7) Body art technicians, or any other individuals who assist with setting up for, performing, or cleaning up after body art procedures with the potential for exposure to blood and OPIM, shall not eat, drink, apply cosmetics or lip balm, handle contact lenses or store food in work areas where tattooing, branding, or body piercing are performed or other areas where there is a likely exposure to blood and other OPIM.

(8) When performing body art procedures, or assisting with setting up for, performing, or cleaning up after body art procedures, body art technicians and other individuals with the potential for exposure to blood and OPIM, shall perform appropriate hand washing. At a minimum, all of the following apply to handwashing:

(a) Prior to donning gloves to set-up of equipment/instruments used for conducting body art procedures.

(b) Immediately prior to donning gloves to perform a body art procedure.

(c) Immediately after removing gloves at the conclusion of performing a body art procedure and after removing gloves at the conclusion of procedures performed in the sterilization area.

(d) When leaving the work area.

(e) As soon as possible after coming in contact with blood or OPIM or any potentially contaminated surface, including after cleaning and disinfecting after each client.

(f) Before and after eating, drinking, smoking, applying lip cosmetics or lip balm, handling contact lenses, or using the bathroom.

(g) When hands are visibly soiled.

(9) Hand washing shall include thoroughly washing the hands in warm, running water with liquid soap using friction on all surfaces of the hands and wrists for at least 15

seconds, then rinsing hands and drying hands with a clean, disposable paper towel, and turning off the faucet with a new disposable paper towel.

(10) Body art technicians shall perform tattooing, branding, or body piercing in a manner that minimizes splashing, spraying, or splattering of blood.

(11) When involved in body art procedures, body art technicians and any other individuals involved in setting up for, performing, or cleaning up after body art procedures with the potential exposure to blood and OPIM, shall wear disposable medical-grade exam gloves to minimize the possibility of transmitting infections during body art procedures.

(12) Under no circumstances shall a single pair of exam gloves be used for the entire body art procedure.

(13) A minimum of 1 pair of disposable, medical-grade exam gloves shall be used for each of the following stages of the body art procedure:

(a) Set-up of equipment or instruments used for conducting body art procedures and skin preparation of the body art procedure area.

(b) The body art procedure and post-procedure teardown.

(c) Cleaning and disinfection of the procedure area after each use between clients.

(14) If, when involved in body art procedures, the body art technician or any other individual involved in setting up for, performing, or cleaning up after body art procedures, leaves the body art procedure area in the middle of a body art procedure, gloves must be removed before leaving the procedure area and a new pair of gloves put on when returning to the procedure area.

(15) If, when involved in body art procedures, the body art technician's glove or gloves, or the glove or gloves of any other individual involved in setting up for, performing, or cleaning up after body art procedures, is pierced or torn, or if the glove or gloves become potentially contaminated by contact with non-clean, non-sterile surfaces, the glove or gloves must be changed immediately. To ensure adequate protection for the practitioner, latex gloves shall not be used in conjunction with petroleum based products.

(16) Under no circumstances shall a single pair of gloves be used on more than 1 client.

(17) The use of disposable exam gloves does not preclude or substitute for hand washing procedures.

(18) Gloves and any other required PPE shall be applied and removed according to requirements that minimize contamination of the person using them.

(19) Disposable gloves and any required PPE shall be removed before leaving the area where tattooing, body piercing, and branding is performed.

(20) Disposable gloves and any other required disposable PPE shall be disposed of in an appropriate, covered waste receptacle.

(21) Any reusable PPE shall be placed in an appropriate provided receptacle for storage until they can be cleaned, disinfected, and sterilized.

(22) If while performing a body art procedure, an item or instrument used for body art is contaminated by coming in contact with a surface other than the procedure surface or the client, the item shall be discarded or removed from service and replaced immediately with a new disposable item or a new sterilized item or instrument before the procedure continues.

(23) Body art technicians shall immediately dispose of all needles, including the needle bar, and other contaminated sharps directly into a conveniently placed and secured sharps

disposal container. Body art technicians shall not bend, recap, break, or shear contaminated sharps.

(24) Failure to follow the requirements in this rule shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license as an imminent danger.

R 333.13110 Client contact in event of communicable disease outbreak; disclosure.

Rule 10. The body art facility shall require the client to provide contact information in the event of a communicable disease outbreak investigation, body jewelry recall, or other issues pertaining to the client's health. Contact information may include a phone number or an e-mail address, or both.

R 333.13111 Record retention.

Rule 11. (1) All client and employee records, electronic or hard copy shall be retained in a confidential manner in compliance with the following:

- (a) All paper records shall be retained in a locked filing cabinet or a locked room.
- (b) All electronic records must be password protected.
- (c) Access to client records must be limited to the following:
 - (i) Individuals working at the body art facility that must have access to the client records in order to carry out the responsibilities of their position at the body art facility.
 - (ii) Department or local health department staff who need access to records to document body art facility compliance with requirements delineated in these rules, to investigate a laboratory confirmed infection, or to conduct a communicable disease outbreak investigation.

(2) All client and employee records shall be retained for a minimum of 3 years, unless the business dissolves and the records are subject to the requirements of subrules (4) and (5) of this rule.

(3) After the 3-year minimum for record retention, all client and employee records may be destroyed. Destruction of records shall include shredding, incineration, electronic deletion or disposal in another manner that protects the confidentiality of all client and employee-related documents.

(4) Body art facilities that close and go out of business are required to properly dispose of records, whether there has been a minimum of 3 years retention. Destruction of records shall include shredding, incineration, electronic deletion, or disposal in another manner that protects the confidentiality of all client and employee-related documents.

(5) Body art facilities that are sold or where the business interest has been transferred to another body art facility shall transfer their records or properly dispose of their records in accordance with subrule (4) of this rule, depending on the conditions of the sale or transfer of the business interest.

(6) Violation of the procedures in this rule may subject the owner or operator of the body art facilities to the penalties under MCL 333.131079.

PART IV. PROTECTIVE PROCEDURES; CRITICAL VIOLATIONS

R 333.13112 Preparation and care of body art area; conducting body art procedure; **body jewelry composition**; violations considered critical violations.

Rule 12. (1) Body art procedure areas shall be organized to prevent cross-contamination of clean, disinfected, or sterile instruments and equipment with contaminated equipment. The organization of the body art procedures area shall include the following:

(a) A cleaned and disinfected field established that contains all cleaned, disinfected, and sterilized instruments and equipment and supplies to be used in the body art procedure.

(b) All supplies before the procedure begins organized in a manner to minimize contamination of the field.

(c) All sterilized supplies remain in the sterile package until opened in front of the client.

(d) A separate disposable container or a container capable of being cleaned and disinfected available and shall be used to hold and transport all post-procedure contaminated instruments/equipment from the procedure area to the cleaning, disinfecting, and sterilization area.

(2) Before a body art procedure is performed, the immediate skin area and the areas of the skin surrounding where the body art is to be placed shall be washed with soap and water. The area shall then be prepared with an appropriate skin preparation allowing the preparation to dry on the skin before beginning the body art procedure. Washing pads shall be disposed of in a covered waste receptacle after a single use.

(3) For an oral body art procedure, the mouth shall be rinsed out with an oral antiseptic mouth rinse for at least 30 seconds.

(4) If shaving is necessary, single-use disposable razors shall be used. Used razors shall be immediately disposed of in an approved, properly-labeled and secured sharps disposal container. Following shaving, the immediate skin area and the areas surrounding where the body art is to be placed shall be washed with soap and water. The area shall be prepared with an appropriate antiseptic skin preparation according to the manufacturer's instructions. Washing pads shall be disposed of in a covered waste receptacle after a single use.

(5) All tattoo pigments or inks, tattoo needles, and piercing needles used for body art procedures shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.

(6) All other body art instruments, which may include scalpels and dermal punches, shall be used in accordance with manufacturer's instructions.

(7) All needles used for tattooing must be single-use, sterile needles. After use, needles, including the needle bar, shall be immediately disposed of in an approved, properly-labeled and secured sharps disposal container.

(8) All products applied to the skin, including body art stencils, shall be single-use and disposable.

(9) Application of stencils shall be dispensed and applied on the area to be tattooed with clean paper toweling or an applicator in a manner to prevent contamination of the original container and its contents. The used paper toweling or applicator shall be disposed of in an appropriate covered waste receptacle after a single use.

(10) Immediately before a tattoo is applied, the quantity of tattoo pigment or ink to be used shall be transferred from the tattoo pigment or ink bottle and placed in a single-use

pigment cap. Upon completion of the tattoo, these single use pigment caps and their contents shall be discarded.

(11) Before disposal, any tattoo pigment/ink remaining in liquid form shall be disposed of by placing absorbent materials into the cap to absorb the liquid and the caps disposed of in an appropriate covered waste receptacle after a single use.

(12) Tattoo pigment or ink shall not, under any circumstances, be reused on another client or placed back in the original stock container.

(13) Tattoo pigment or ink bottles must be stored in a clean, dry, closed cabinet or tightly covered container when not in use. If tattoo pigment or ink bottles are stored in the body art procedure area, they may not be accessed during the performance of a body art procedure without first removing and disposing of contaminated gloves and performing hand washing. New medical-grade exam gloves must be used to complete the body art procedure.

(14) After performing a tattoo, the following procedure shall be performed:

(a) Excess pigment or ink shall be removed from the skin with a clean, single use paper towel.

(b) The completed tattoo shall be washed with an appropriate antiseptic solution.

(c) The tattooed area shall be allowed to dry.

(d) An ointment shall be applied either from a single-use packet or using an applicator in such a way that the original container is not contaminated.

(e) A non-stick dressing shall be applied to the site and secured with medical-grade adhesive tape or self-adhesive wrap. An acceptable dressing would be a non-stick dressing to prevent ink removal.

(f) Food-grade plastic wrap shall not be used as a dressing.

(15) For permanent make-up or cosmetic tattooing, the use of some rotary pens is permitted. Only rotary pens that have detachable, disposable, sterile combo couplers and detachable, disposable casings or casings that can be cleaned and sterilized shall be used. The use of any rotary pen that uses a sponge at the opening of the chamber to stop the pigment or blood or OPIM from getting into the machine or is designed in a manner that does not allow it to be cleaned and sterilized shall not be permitted.

(16) All needles used for piercing must be single-use, sterile needles. After use, needles shall be immediately disposed of in an approved, properly-labeled and secured sharps disposal container. Needles are not to be bent, broken, or recapped before disposal into sharps disposal container. Expired needles shall not be re-autoclaved unless approved by manufacturer.

(17) All body jewelry used for piercing must be sterilized before use. ~~Body jewelry for initial piercings must be made of implant grade materials that meet the minimum ISO 5832-1 compliant or ASTM F-138 compliant designation standards.~~

(18) The composition of body jewelry used for piercing shall be comprised of only the following materials:

(a) Steel that is ASTM F138 compliant or International Organization for Standardization (ISO) 5832-1 compliant.

(b) Steel that is ISO 10993-6, 10993-10, and/or 10993-11 compliant.

(c) Titanium (Ti6Al4V ELI) that is ASTM F136 compliant or ISO 5832-3 compliant.

(d) Titanium that is ASTM F67 compliant.

(e) Solid 14 karat or higher nickel-free white or yellow gold.

(f) Solid nickel-free platinum alloy.

- (g) Niobium (Nb).**
- (h) Fused quartz glass, lead-free borosilicate or lead-free soda-lime glass.**
- (i) Polymers (plastics) as follows:**
 - (i) Tygon® Medical Surgical Tubing S-50HL or S-54HL.**
 - (ii) Polytetrafluoroethylene (PTFE) that is ASTM F754 compliant.**
 - (iii) Any plastic material that is ISO 10993-6, 10993-10 and/or 10993-11 compliant and/or meets the United States Pharmacopeia (USP) Class VI material classification.**
- (19) All threaded or press-fit jewelry must have internal tapping with no threads on posts.**
- (20) Body jewelry surfaces and ends must be smooth, free of nicks, scratches, burrs, polishing compounds, and metals must have a consistent mirror finish.**
- (21) A body art facility's use of the European Economic Community Nickel Directive alone is not sufficient for meeting the Association of Professional Piercers initial jewelry standards.**
- (22) Mill certificates for jewelry inventory shall be part of required facility records.**
- (1823) In the event of excessive bleeding at any time during a body art procedure, all products used to check the flow of blood or to absorb blood shall be sterile, unused, single-use items and must be disposed of immediately after use in appropriate, covered waste receptacles, unless the disposal product meets the definition of medical waste. Styptic pencils, alum blocks, or other solid styptics shall not be used to stop excessive bleeding.**
- (1924) Failure to follow the procedures in this rule shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license as an imminent danger.**

R 333.13113 Cleaning, disinfection, and sterilization procedures; violations considered critical violations.

Rule 13. (1) All procedure surfaces shall be cleaned and disinfected with an EPA-registered tuberculocidal disinfectant after each use and between clients regardless of whether contamination is visible. Disinfectants shall stay on surfaces for a specific amount of time to fully disinfect the surface before being wiped down. Instructions included with the disinfectant shall be followed regarding the required chemical concentration and the amount of time needed to properly disinfect an area.

(2) Non-procedure surfaces and equipment shall not be touched during the body art procedure. If an object is likely to be touched during the procedure, it shall be covered with an appropriate barrier such as barrier film, a clip cord sleeve, dental bib, or table paper.

(3) Any barrier used to cover equipment must be discarded at the end of each procedure.

(4) The underlying surface must be clean and disinfected after each use and between clients and before a new barrier covering is applied.

(5) No cloth or fabric chairs shall be used in the procedure or sterilization area.

(6) Failure to follow the procedures in this rule shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license as an imminent danger.

R 333.13114 Cleaning, disinfecting, and sterilizing procedure of non-disposable items; violations considered critical violations.

Rule 14. (1) All non-disposable instruments used in body art procedures shall be thoroughly cleaned after each use. Cleaning is accomplished by manually scrubbing instruments with warm water and an appropriate detergent solution to remove blood and OPIM in the sterilization area.

(2) Once visible blood and OPIM is removed, all non-disposable instruments shall be placed in a disinfection tub filled with EPA-registered tuberculocidal disinfectant. Instruments shall be fully submerged to ensure contact with all surfaces for an amount of time specified in the manufacturer's instructions. All hinged instruments such as piercing forceps shall be in the open position.

(3) When disinfection is completed, instruments shall be rinsed, patted dry, and placed in an ultrasonic cleaner filled with an appropriate ultrasonic solution, and the ultrasonic unit shall be run according to the manufacturer's suggestions. All hinged equipment such as piercing forceps shall be in the open position.

(4) The ultrasonic unit shall be used, cleaned, and maintained in accordance with manufacturer's instructions and a copy of the manufacturer's recommended procedures for the operation of the ultrasonic unit shall be kept on file at the body art facility.

(5) Upon removal from the ultrasonic unit, all non-disposable instruments used for body art shall be rinsed, air dried, and packed individually in peel-packs and subsequently sterilized in a steam autoclave or dry-heat sterilizer. All hinged instruments such as piercing forceps shall be packaged in an open position.

(6) All peel-packs shall contain a chemical/temperature and/or humidity sensitive tapes, strips or pellets for monitoring each sterilization cycle. Reactions must be recorded in a log book for each sterilization cycle.

(7) Peel-packs shall be labeled to include the date of sterilization.

(8) The steam autoclave or dry-heat sterilizer shall be used, cleaned, and maintained in accordance with manufacturer's instructions and a copy of the manufacturer's recommended procedures for the operation of the steam sterilizer or dry heat sterilizer shall be kept on file at the body art facility.

(9) After sterilization, the instruments used for body art procedures shall be stored in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such instruments.

(10) All instruments used in body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure.

(11) Sterilized instruments may not be used if the package integrity has been breached, is wet or stained, or the expiration date has been exceeded without first repackaging and re-sterilizing.

(12) The expiration date for sterilized instruments is 1 year from the date of sterilization unless the integrity of the package is compromised.

(13) The owner or operator of a body art facility shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore detection tests. These tests shall be verified through an independent laboratory. Test records shall be retained by the owner or operator for a period of at least 3 years and be posted in a conspicuous place within the sterilization area.

(14) If a spore test result is positive, the body art facility shall discontinue the use of that sterilizer until it has been serviced and a negative spore test has been recorded before putting that sterilizer back into service.

(15) Until a negative spore test has been received, the body art facility shall use the following:

(a) An alternative sterilizer.

(b) Either of the following:

(i) Instruments that have sterilization date on or before the date before the last negative spore test was recorded.

(ii) Only disposable and pre-sterilized instruments.

(16) Instruments from sterilization runs after the last negative spore test must be repackaged and sterilized successfully before use.

(17) The owner and/or operator of the body art facility shall notify the local health department that inspects body art facilities in the jurisdiction in which the body art facility is located, of the positive spore test within 24 hours of the positive spore testing occurring.

(18) Body art facilities that use only disposable instruments are not required to have a steam autoclave or a dry-heat sterilizer.

(19) Body art technicians and all other individuals working in the body art facility shall follow appropriate hand washing technique and wear gloves and other required PPE when involved in cleaning, disinfecting, and sterilization procedures.

(20) Body art technicians and all other individuals working in the facility shall comply with all of the following when cleaning and disinfecting procedure surfaces and procedure areas:

(a) Gloves and other PPE shall be worn when cleaning and disinfecting body art procedure surfaces and procedure areas, including the removal of any barrier materials. Gloves shall be either medical grade disposable gloves or heavy duty reusable gloves. Gloves shall be removed before leaving the procedure area.

(b) Appropriate hand washing shall be performed immediately upon glove removal after cleaning and disinfecting body art procedure areas.

(21) Body art technicians and all other individuals working in the facility shall comply with the following procedures when cleaning and disinfecting non-disposable instruments:

(a) Gloves and other required PPE shall be worn when cleaning and disinfecting non-disposable instruments.

(b) Gloves shall be disposable medical grade exam gloves.

(c) Gloves shall be removed after loading the ultrasonic cleaner.

(d) Appropriate hand washing shall be performed immediately upon glove removal after loading the ultrasonic cleaner.

(22) Body art technicians and all other individuals working in the facility shall comply with the following procedures when sterilizing non-disposable instruments and handling sterilized instruments:

(a) Either gloves or other required PPE shall be worn when preparing materials for sterilization and loading materials into the steam autoclave or dry heat sterilizer.

(b) Gloves shall be disposable medical grade exam gloves.

(c) Appropriate hand washing shall be performed immediately upon preparing the materials for sterilization and loading materials into the steam autoclave or dry heat sterilizer.

(d) Appropriate hand washing shall be performed prior to donning gloves before unloading materials from the steam autoclave or dry heat sterilizer and placing them into storage.

(e) Appropriate hand washing shall be performed prior to donning gloves before retrieving sterilized materials from the storage area in preparing for setting up for a body art procedure.

(f) A different pair of gloves shall be used for each of the stages in subdivision (a) to (e) of this subrule for cleaning, disinfecting, and sterilization.

(23) All gloves and other required PPE shall be removed in a way that minimizes risk of contamination of the person using them.

(24) If either medical grade gloves or other disposable PPE are used, they shall be disposed of in an appropriate covered waste receptacle.

(25) If either heavy duty reusable gloves or other reusable PPE are used, they shall be placed in a container for cleaning and disinfecting.

(26) If heavy duty reusable gloves are used, each person using them shall have his or her own pair of gloves or reusable gloves disinfected with an environmental disinfectant, rinsed and allowed to dry between uses.

(27) Failure to follow the procedures in this rule shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license as an imminent danger.

R 333.13115 Medical waste; disposal procedures; violations considered critical violations.

Rule 15. (1) A body art facility shall comply with the requirements of part 138 of the public health code, 1978 PA 368, MCL 333.13801 to MCL 333.13832.

(2) Failure to follow the procedures in this rule shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license as an imminent danger.

PART V. FACILITY REQUIREMENTS

R 333.13116 Facility requirements; violations considered critical violations.

Rule 16. (1) All body art facilities shall be completely separated by walls extending from floor to ceiling, from any room used for human habitation or any activity that may cause potential contamination of work surfaces.

(2) The body art facility shall have self-closing doors and windows equipped with screens in good repair if the windows are intended to be used for ventilation.

(3) Body art procedure areas shall be separated from both the customer waiting area and retail area by a panel or wall at least 4 feet high.

(4) There shall be a minimum of 45 square feet of floor space for each body art technician's body art procedure area in the facility.

(5) All walls and floors of a body art facility shall be smooth, free of open holes or cracks, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. Carpeting is allowed in the waiting area if the waiting area is totally separate and not directly adjacent to procedure areas. Carpeting is not allowed in aisles between adjacent procedure areas.

(6) All procedure surfaces in the body art procedure area, including client chairs, tables, benches, and counters, shall be smooth, free of open holes or cracks, washable, and in good repair. All procedure surfaces, including client chairs, tables, benches, and counters, shall be of such construction as to be easily cleaned and disinfected after each use between clients. For questionable surfaces, such as leather procedure arm bars, barriers, and tape shall be used during the procedure.

(7) The facility shall be well-ventilated and provided with an artificial light source equivalent to at least 20 footcandles 3 feet off the floor, except that 100 footcandles shall be provided at the level where the body art procedures are being performed, and where instruments and sharps are either handled or assembled. Spot lighting may be utilized to achieve this required degree of illumination for the purpose of conducting body art procedures. Fluorescent tube lighting over a procedure area shall be protected from accidental breakage during a procedure by an appropriate covering.

(8) A separate hand washing sink shall be designated for staff use only with warm running water under pressure and with the owner or the operator's option to equip the facility with wrist or foot-operated controls. Liquid soap and disposable paper towels shall be readily accessible to the body art technicians. There shall be a covered waste receptacle by each sink for the disposal of paper towels. One hand sink shall serve no more than 3 body art technicians.

(9) A body art facility shall have a minimum of 1 lavatory with a toilet and a separate sink.

(10) A body art facility shall have a separate room or area for the sole purpose of cleaning, disinfecting, and sterilizing contaminated tools and instruments. This area shall be separated from the remainder of the facility by a minimum of a wall or partition and shall be an area that does not allow client access. The cleaning, disinfecting, and sterilizing area shall be organized to prevent cross-contamination of clean, disinfected, or sterile equipment with dirty equipment.

(11) All sinks in the body art facility shall only be used for their designated purpose.

(12) All chemical or cleaning supply containers shall be properly labeled.

(13) At least 1 covered waste receptacle shall be provided in each body art procedure area and each toilet room. Waste receptacles in the body art procedure area or areas shall be emptied daily and solid waste shall be removed from the premises at least weekly. All waste receptacles shall be cleanable and kept clean, and capable of being disinfected.

(14) The facility shall follow the disposal and container requirements under R 325.70001 to R 325.70016. The containers shall be changed, at a minimum, 90 days after the date of first use.

(15) No animals shall be allowed in the body art facility except service animals used by persons with disabilities such as seeing-eye dogs.

(16) Effective measures shall be taken by the owner or operator of the body art facility to protect against entrance into the facility and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any parts of the facility.

(17) For new body art facilities and for body art facilities undergoing renovation, an 8 ½ by 11 or larger scale drawing and floor plan of the proposed facility or the proposed renovation of the facility shall be submitted to the local health department responsible for body art facility inspection for the jurisdiction in which the body art facility will be or is

located. This drawing and a copy of the floor plan shall show the accurate placement of each of the following items:

- (a) Walls.
- (b) Windows.
- (c) Doors.
- (d) Waiting area.
- (e) Procedure area or areas.
- (f) Bathroom or bathrooms.
- (g) Cleaning, disinfection, and sterilization area.
- (h) Equipment and instrument storage area or areas.
- (i) Chairs.
- (j) Tables.
- (k) Sinks.

(18) The scale drawing and floor plan in subrule (17) of this rule shall be submitted to the local health department at least 60 days before the proposed opening or planned renovation. A pre-opening inspection of the premises is required before body art services can be performed in this new facility or renovated area. Approval of the site plan shall be granted by the local health department prior to construction or renovation of the body art facility.

(19) In addition to construction and renovation authority, water supply, plumbing, and sewage disposal shall also be in compliance under the requirements of the local health authority under 368 PA 1978, MCL 333.2235; 368 PA 1978, MCL 333.2433; and 230 PA 1972, MCL 125.1508(a) and (b).

(22) Failure to follow the requirements in this rule shall be considered a critical violation which may lead to immediate closure, and suspension or revocation, or both, of the body art facility license as an imminent danger.

R 333.13117 Temporary facility license requirements for owners and operators of body art facilities; affiliated and non-affiliated facilities; violations considered critical violations.

Rule 17. (1) An affiliated temporary body art facility, both the county where the permanent body art facility is located and the county of the temporary body art facility location, will receive an e-mail inspection request.

(2) The temporary body art facility, affiliated or non-affiliated, must be contained in a completely enclosed structure protected from wind, dust, or outdoor elements.

(3) An owner or operator may have more than 1 technician working under the temporary license if there is a single set-up where individual procedure areas are adjacent or contiguous with one another. If there are multiple set up sites at the event that are not adjacent or contiguous with one another, the owner or operator must apply for a separate temporary license for each distinct artist space.

(4) If the event is one in which an individual body art facility owner or operator secures a distinct artist space in a temporary location, such as an area at a convention, exposition, trade show, hall, or event center, to perform body art procedures, then each owner or operator must obtain his or her own individual temporary body art facility license for each distinct artist space.

(5) Affiliated temporary body art facility licenses shall be issued if the applicant is the owner or operator of a licensed body art facility in this state and is operating at a fixed or permanent location. The body art facility at the fixed or permanent location must have been inspected by the local health department responsible for body art facility inspection for the jurisdiction in which the body art facility is located within the previous 12 months. The results of that inspection must have documented compliance with the requirements in the department's document.

(6) The affiliated temporary body art facility shall be in compliance with the requirements in these rules. However, the following adaptations are allowed for requirements related to hand washing, facility size, lighting, and sterilization of equipment:

(a) The facility shall have a minimum of 80 square feet of floor space

(b) Hand washing facility requirements shall include running water, liquid soap, and disposable paper towels. Sink drainage must be in accordance with local plumbing codes.

(c) At least 100 footcandles of light at the level where the body art procedure is to be performed and where instruments and sharps are assembled. Spot lighting may be used to achieve this required degree of illumination for the purpose of conducting body art procedures.

(d) If reusable instruments are sterilized on site, there must be documentation that a spore test was performed on the steam sterilizer or dry heat sterilizer not more than 30 days before the first date that the temporary license will be in effect.

(e) Acceptable alternatives to on-site sterilization include the following:

(i) Only single-use, prepackaged sterilized equipment shall be used.

(ii) Transport contaminated reusable instruments to a licensed body art facility at a fixed or permanent location in a container that has a secure lid, is leak-proof on the sides and bottom, is labeled and/or color-coded indicating it may contain liquid blood or OPIM.

(iii) Sharps containers may be transported to an accepting medical waste treatment facility if in compliance with United States Department of Transportation materials of trade exemptions guidelines.

(7) The local health department shall be responsible for the body art facility inspection for the jurisdiction in which the temporary body art facility is located. Inspection of temporary body art facilities shall focus on the physical set-up and operation of the temporary facility. Both of the following apply to inspections:

(a) Inspection of temporary body art facilities affiliated with a licensed permanent facility at a fixed location within this state will not require the owner or operator to produce evidence of compliance with other requirements that have already been documented as part of the licensing or annual inspection of the permanent facility at a fixed location, including employee vaccination status, employee training, and record-keeping.

(b) Applicants applying for a temporary body art facility license that are not affiliated with a permanent fixed facility licensed by this state shall undergo an inspection by the local health department who has jurisdiction for the location of the temporary license and are considered a non-affiliated temporary body art facility.

(c) In addition to the inspection of the physical set-up and operation, the non-affiliated temporary facility must provide evidence of compliance with all of the act and its rules.

This includes, but is not limited to, documentation of employee vaccination status, employee training, both client and employee record keeping, and spore testing.

(8) If the local health department that has jurisdiction for the on-site inspection of an affiliated or non-affiliated temporary license documents compliance in accordance with these rules, the department will grant a license to the applicant for the operation of a temporary body art facility. A body art facility inspection report form approved, dated, and signed by the representative of the local health department which has jurisdiction for the inspection shall be posted on site in lieu of a formalized department license.

(9) The temporary body art facility license, as well as the department-provided disclosure statement and notice for filing complaints shall be posted in a prominent and conspicuous place within the temporary body art facility where it may be readily seen by all clients.

(10) Temporary facilities not found in compliance with this rule shall be considered a critical violation which may lead to immediate closure, suspension, or revocation, or any combination of these, of the body art facility temporary license as an imminent danger.

PART VI. ENFORCEMENT

R 333.13118 Enforcement.

Rule 18. (1) Violations of these rules shall be cited on the inspection report by the local health department for the jurisdiction in which the body art facility is located. The inspection report shall delineate both critical and non-critical violations. Non-critical violations must be corrected by the next regular inspection or such period of time as may be specified. If the violations are considered as critical, then those violations must be corrected immediately or a follow-up inspection will be scheduled.

(2) Critical violations, if not corrected in the time specified, may lead to closure, suspension, or revocation, or any combination of these, of the body art facility license as an imminent danger.

(3) The owner or operator may appeal an order to cease operation in writing to the local health department that recommended the cessation. The appeal must ask for a re-determination and request a follow-up inspection by the local health department.

(4) If the local health department denies the appeal redetermination based on a follow-up inspection, the state or local health department, whichever governmental entity has initiated the enforcement action, shall inform each applicant in writing of the right to a fair hearing, of the method by which a hearing shall be requested, and that any positions or arguments on behalf of the individual may be presented personally or by legal counsel.

(5) Upon receipt of a letter from a body art facility requesting an administrative hearing regarding suspension of licensure, the state or local health department shall schedule a date and time for an administrative hearing and notify the department and the applicant.

(6) In addition to enforcement action authorized by law, a civil action in a court of competent jurisdiction may be brought for injunctive relief.

(7) Complaints concerning an unlicensed or licensed body art facility submitted to the department shall be referred to the local health department that has jurisdiction for the complaint pursuant to the act.

