 RULES AND REGULATIONS
FOR
TATTOO & PIERCING ESTABLISHMENTS
RULE #5

RiverStone Board of Health
Yellowstone City-County Health Department
dba Riverstone Health

RiverStone Health
123 S. 27th St.
Billings, MT 59101

4th Revision December 2013
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Preamble

Yellowstone City-County Health Department d.b.a. RiverStone Health, is a multi-jurisdictional service district created under an interlocal agreement among the City of Billings, Montana ("Billings"), the City of Laurel, Montana ("Laurel"), and Yellowstone County, Montana (the "County"), for the purpose of providing a higher level of service than is available through local governments forming such a district and to provide services that are not available through the governments forming such a district. The interlocal agreement creates a City-County Board of Health (the "Board") which possesses the powers, duties, obligations, and responsibilities granted to local boards of health under Mont. Code Ann. § 50-2-101 et seq. ("Health Department Functions"). That power includes the authority to appoint a local Health Officer (the "Health Officer") who possesses the powers and duties enumerated under Mont. Code Ann. §50-2-118.

The provisions of Mont. Code Ann. §50-48-203 permit the Board to implement its own licensure and regulatory program for tattooing and body piercing, established independent of that of the Montana Department of Public Health and Human Services ("DPHHS"), and the Board may adopt necessary regulations that are not less stringent than DPHHS rules adopted under Mont. Code Ann. §50-48-103, and may include:

(a) standards to ensure sanitation and safety in establishments to protect public health and safety;
(b) licensure of establishments;
(c) procedures for enforcement of the laws and rules relating to establishments, including the implementation of plans of correction; and
(d) fees that reflect and may not exceed the actual costs incurred for licensure, inspection, enforcement, training, and administration.

At a public hearing and public comment duly held on December 5th, 2013, the Board found that:

(a) statutory authority under Mont. Code Ann. §50-48-203 permits the Board to establish its own licensure and regulatory program for tattooing and body piercing establishments independent of DPHHS;
(b) there are health and safety risks associated with the procedures and practices of tattooing and body piercing;
(c) safe and sanitary conditions of the tattooing and body piercing industry are necessary for the prevention of the transmission of bloodborne
Therefore the Board adopts the following Rule #5:

Section 1 – Authority and Scope of Rules

(1) These rules are written pursuant to the authority granted to local boards of health under Mont. Code Ann. §50-48-203 to implement a licensure and regulatory program for Body Art, independent of and in lieu of State statutory or regulatory authority.

(2) These regulations cover all “Estabishments,” as defined herein, including tattoo shops, tattoo parlors, temporary or mobile tattoo facilities, and the “practice of tattooing” in Yellowstone County.

(3) These regulations cover all piercing shops, piercing parlors, temporary or mobile piercing facilities and the “practice of piercing” in Yellowstone County.

(4) These regulations cover all individual Artists who perform Body Art.

(5) Any licensing of a Body Art Establishment is not to be construed as being a license that may be required by other offices or agencies in Yellowstone County or by the state of Montana.

(6) The Board may require of the Applicant, through the licensing process, verification of compliance, or the ability to comply, with other agencies, districts or laws, rules or regulations, where deemed pertinent by the Board, to protect the Applicant’s interests.

Section 2 – Effective Date

(1) All provisions established under this rule are effective as of January 1, 2014.
Section 3 – Definitions

(1) “Aftercare Instructions” means verbal and written instructions that the client should follow to prevent infection and promote healing of the skin after receiving a Procedure.

(2) “Antiseptic” means a substance applied to the skin that kills or inhibits the growth of disease-causing microorganisms.

(3) “Applicant” means any person or entity that submits an application for a license to operate a Body Art Establishment or operate within a Body Art Establishment.

(4) “Apprentice” means an Artist engaged in learning the occupation of Body Art in a Body Art Establishment being overseen by an Artist or Operator of the licensed Body Art Establishment.

(5) “Apprenticeship” means the specific period of guided progress of an Apprentice through the basic, intermediate, and advanced levels of Body Art training.

(6) “Approved” means the official consent given in writing by the Board and/or the Health Officer or a Health Officer’s representative.

(7) “Artist” means a Tattooist or Body Piercer.

(8) “Aseptic Technique” means a Procedure that prevents the contamination of any object or person.

(9) “Board or Board of Health” means the Yellowstone City-County Board of Health.

(10) “Body Art” means the practice of physical body adornment by permitted Body Art Establishments and Operators utilizing, but not limited to, the following techniques: Body Piercing, Tattooing and Cosmetic Tattooing. This definition does not include practices that are part of a medical procedure performed by board certified medical or dental personnel. This definition shall not include piercing of the outer perimeter or Ear Lobe using a pre-sterilized single use stud and clasp.
ear piercing system. This definition shall not include **Extreme Body Modifications** such as branding, cutting, scarification, or suspension.

(11) "**Body Art Association**" means a group of **Artists, Operators**, regulators, health professionals, and community members who meet to help regulate portions of the **Body Art** industry this rule does not address.

(12) "**Body Art Establishment**" or "**Establishment,**" means either a body-piercing operation, a tattooing operation, or a combination of both operations in a "**Multiple-type Establishment,**" and includes any place or premise, whether public or private, temporary or permanent in nature or location, where the practices of **Body Art**, whether or not for profit, are performed.

(13) "**Body modification**" is the intentional altering of the human body for any nonmedical reason.

(14) "**Body Piercer**" means a person who engages in the practice of **Body Piercing**. This term does not include:

(A) The practice of electrology as defined in Mont. Code Ann. §37-31-101(4); or

(B) The use by a physician or medical professional who is licensed to practice in the state of Montana;

(C) An acupuncturist.

(15) "**Body Piercing**" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature, and includes puncturing of human skin by any method, for the purpose of inserting **Jewelry** or other objects, in or through the human body. "**Body Piercing**" does not refer to any medical procedure performed by a licensed medical or dental provider. Also, for purposes of this Rule #5, "**Body Piercing**" does not include **Ear Lobe Piercing**.

(16) "**Cleaning room**" means the room used to sterilize instruments and jewelry with an autoclave.

(17) "**Client**" means the person whose skin will be tattooed or pierced.
(18) "Contaminated" means the probable presence of any microorganisms.

(19) "Disinfectant" means a substance or solution, registered with the United States Environmental Protection Agency ("EPA") which kills or inactivates viruses and microorganisms, but not necessarily their spores.

(20) "Ear Lobe" means the fleshy, pendulous part of the external human ear.

(21) "Ear Lobe Piercing" means the puncturing of the Ear Lobe, but not the ear cartilage using a pre-sterilized single use stud and clasp ear piercing system following manufacturing guidelines. This system shall not be used anywhere on the body other than the non cartilaginous lobe of the ear.

(22) "Ear Lobe Piercing Facility" means a place of business or other premises, whether or not operated for profit, where Procedures are offered, sold or given only on the Ear Lobes.

(23) "Easily cleanable" means a characteristic of a surface that allows effective removal of soil by normal cleaning methods.

(24) "Equipment" means all machinery, including fixtures, containers, vessels, instruments, 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.

(25) "Extreme Body Modification" means any method, other than Tattooing, Permanent Cosmetics, or Body Piercing methods used to alter the appearance, sensation, or function of the human body. Some examples include, but are not limited to, scarification, branding, cutting, implantation, and suspension. Extreme body modification is considered a medical or surgical procedure and is a prohibited act in Body Art Establishments.

(26) "Guest Artist" means an individual who performs a Procedure in a currently licensed Body Art Establishment for a period of time less than 1 month.
(27) "Hand Washing Facility" means a sink providing hot and cold running water under pressure with Single-use towels, Antiseptic soap, and a covered waste receptacle.

(28) "Hot Water" means water that attains and maintains a temperature between 100 degrees F and 120 degrees F.

(29) “Implant” means any transdermal or subdermal object that is embedded into a person’s body. Implants do not include microdermal anchors or two-point piercings.

(30) “Infectious Waste” has the same definition found at Mont. Code Ann. §75-10-1003(4).

(31) “Ink Cup” means a small Single-use container for an individual portion of pigment which may be installed in a holder or palette, and in which a small amount of pigment of a given color is placed.

(32) “Inspector” means any agent or representative acting on behalf of the Health Officer.

(33) “Instrument” means hand piece, needle, and any other tool that may come in contact with a Client’s body or be exposed to blood or bodily fluids during a Procedure.

(34) “Jewelry” means any ornament inserted into the body which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold; niobium, titanium, or platinum; or a dense low-porosity plastic which is free of nicks, scratches, or irregular surfaces.

(35) “Microdermal anchor” means a piece of jewelry defined in ARM 37.112.103(16) used for single-point piercings that has a foot no longer than 8mm in length.

(36) “Mobile Body Art Establishment” means a facility where a Procedure is conducted, utilizing a wheeled vehicle for movement from place to place.

(37) “Multiple-type Establishment” means an operation encompassing both Body Piercing and Tattooing on the same premises under the
same management. Reference to an Establishment shall also mean a Multiple-type Establishment.

(38) "Operator" means any individual who controls, operates, manages, conducts or practices Body Art at a Body Art Establishment and who is responsible for compliance with these regulations whether actually performing Body Art or not.

(39) "Permanent Cosmetics", also known as permanent makeup or micro pigmentation, means Tattooing colored pigments on any part of the face for cosmetic purposes.

(40) "Physician" means a person licensed to practice medicine in Montana by the Montana Board of Medical Examiners under the Montana Department of Labor and Industry.

(41) "Procedure" means the process of either Tattooing or Body Piercing a Client.

(42) "Procedure Surface" means any surface of an inanimate object that may contact the Client's skin during a Procedure, skin preparation of the area adjacent to and including the Procedure of any associated work area which may require Sanitization.

(43) "Public Water Supply System" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

(44) "Sanitization" means the effective treatment of surfaces on inanimate objects by a product registered by the EPA that provides a sufficient concentration of chemicals and enough time to reduce the bacterial count, including pathogens, to a safe level.

(45) "Sharps" means any discarded instrument or article that may be contaminated with blood or other bodily fluid and may cause punctures or cuts, including but not limited to needles, scalpel blades, razors, and broken glass. A disposable shaving razor with protective cap in place is not considered a sharp.
“Single-point piercing” means a piercing that creates a hole in the skin that acts as both the entry and exit for a microdermal or transdermal anchor.

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

“Spore Test” means a bacterial endospore test designed to assess whether sterilization has actually occurred.

“Standard Precaution” means the current set of guidelines and controls published by the U.S. Center for Disease Control and Prevention, that includes specific recommendations for the use of protective equipment such as gloves, masks, or protective eyewear whenever contact with blood or body fluids containing blood is anticipated.

“Sterilize” means to treat an object or surface with a procedure that kills or irreversibly inactivates all microorganisms, including bacteria, viruses, and pathogenic fungi, including their spores.

“Subdermal object” means an item that is being, living, used, or made under the skin.

“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.

“Tattooist” means a person who engages in the practice of Tattooing.

“Temporary Body Art Establishment” means an Establishment where a Procedure is conducted for not more than 14 days at one location in a calendar year.
(55) "Transdermal anchor" means a piece of jewelry defined under ARM 37.112.106(16) used for single point piercings that has a foot larger than 8mm in length.

(56) "Transdermal object" means an item that is passed, entered, or made by penetration through the skin. Transdermal objects do not include microdermal anchors.

(57) "Two point piercing" means a piercing that punctures the skin creating a distinct entry and exit point.

(58) "Violation" means any failure to comply with Rule #5.

(59) "Work Room" means a designated room or area in which a Procedure takes place.

Section 4 – General Facility Requirements

(1) Each Body Art Establishment and Artist must have a Work Room which complies with provisions of Section 8 of this rule.

(2) The Body Art Establishment must be maintained in good repair at all times during which the Body Art Establishment is operating.

(3) Work Rooms, restrooms, Hand Washing Facilities, Cleaning rooms, waiting areas, and all Body Art Establishment areas to which Clients have access must be kept clean and free of garbage, litter, unnecessary articles, dust, dirt, and sources of airborne dust or fumes.

(4) Utility rooms, storage rooms, and all other auxiliary rooms separated from other areas of the Body Art Establishment by closed doors must be cleaned periodically as necessary to prevent insect or rodent harborage, airborne dust, airborne hazardous chemicals or other contaminants.

(5) All rooms in the Body Art Establishment must be provided with an artificial light source equivalent to twenty (20) foot-candles three feet off the floor, in addition to the requirements of the provisions of Section 8 of this rule.
(6) A **Body Art Establishment** may not be operated in any room or area used as living or sleeping quarters. A **Body Art Establishment** must be separated from any living or sleeping quarters by solid self-closing doors.

**Section 5 – Water Supply**

(1) An adequate and potable supply of water must be provided.

(2) A non-public water supply system must meet the requirements of Food and Consumer Safety (FCS) circular 1-2012 when:

   (A) The water supply is constructed after the effective date of the rule;

   (B) Modifications are made to the water system; or

   (C) The local health authority determines compliance with FCS circular 1-2012 is necessary to meet the requirements of this subchapter. A supplier of an individual, shared, or multiple user water supply must conduct a coliform bacteria test of the system at least twice a year with one sample collected between April 1 through June 30 and the second sample collected between August 1 through October 31, and must conduct a nitrate test of the system at least once every three (3) years. Water test must be analyzed at a certified laboratory. A supplier must keep sampling result records for at least three (3) years.

(3) A **Public Water Supply System** must be constructed and operated in accordance to current applicable laws regulated by the Montana Department of Environmental Quality.

(4) Non-potable water sources must be marked “NOT FOR HUMAN CONSUMPTION.”

(5) Plumbing must be installed and maintained in a manner to prevent cross connections between the potable water supply and any non-potable or questionable water supply or any source of pollution through which the potable water supply might become contaminated. The potable water system must be installed to preclude the possibility of backflow. A hose may not be attached to a faucet unless a backflow prevention device is installed.
(6) A water supply system is determined to have failed and requires treatment, replacement, repair, or disinfection, when the water supply becomes unsafe.

(7) Extension, alteration, repair, or replacement of a water system or development of a new water supply system must be in accordance with all applicable state and local laws.

(8) Bottled and packaged potable water must be obtained from a licensed and Approved source and shall be handled and stored in a way that protects it from contamination.

Section 6 – Sewage System and Solid Waste

(1) An adequate and safe wastewater system must be provided for conveying, treating, and disposing of all sewage. Immediate measures must be taken to alleviate health and sanitation hazards caused by wastewater at the establishment when they occur.

(2) All sewage, including liquid waste, must be disposed of by a public sewage system approved by the Montana Department of Environmental Quality or by a sewage treatment and disposal system constructed and operated in accordance to applicable state and local laws. Non-water carried sewage disposal facilities are prohibited, except as permitted by Section 9(2) for temporary or mobile establishments.

(3) A wastewater system has failed and requires replacement or repair if any of the following occur:

(A) The system fails to accept, treat, or dispose of wastewater as designed;

(B) Effluent from the wastewater system contaminates a potable water supply or state waters; or

(C) The wastewater system is subjected to mechanical failure, including electrical outage, or collapse or breakage of a septic tank, lead line or drain field line.
Extensions, alterations, replacement, or repair of any wastewater system must be done in accordance with applicable state and local laws.

Mop water or soiled cleaning water may not be disposed of in any sink other than a mop or utility sink or toilet.

Solid waste must be collected, stored, and disposed of in a manner and frequency that does not create a sanitary nuisance and meets the requirements of Section 17 for disposal of Infectious Waste. Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility.

Section 7 - Toilets and Hand Washing Facilities

Each Body Art Establishment must have a toilet and Hand Washing Facility conveniently available to Clients and Artists during all hours of operation.

(a) The toilet room must be ventilated, well lighted and equipped with toilet tissue, and waste receptacle.

(b) The toilet room floors, walls and ceilings must be in good repair and in clean condition.

(c) The toilet room must be located within 200 feet by a normal pedestrian route of the Work Room and not more than one floor-to-floor flight of stairs.

(d) Equipment and supplies used for a Procedure must not be stored or used within the toilet room.

(e) The Hand Washing Facility must be located either within the Work Room or within 10 feet of the Work Room door.

(f) The Hand Washing Facility cannot be located in the same room as the toilet.

(g) The Hand Washing Facility must be provided with hot and cold running water by means of a mixing valve or combination
faucet, except as provided in accordance with Section 9(1C) of this rule.

(H) Any self-dispensing, slow closing or metering faucet used must be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet.

(I) Steam mixing valves are prohibited.

(J) Soap must be conveniently located to the **Hand Washing Facility**.

(K) **Clean single-use** towels or a hand drying device providing heated air must be conveniently located for drying hands and a waste receptacle provided.

**Section 8 - Work Room Requirements**

(1) A **Procedure** must take place in the **Work Room** only.

(2) The **Work Room** must be separated by a barrier from the waiting area. The room does not need to have complete physical separation, but must be segregated by counters, self-closing doors, or other barriers such that **Clients** or other employees may not enter the **Work Room** unless they open the barrier to gain access.

(3) The **Work Room** may not be used as a corridor for access to other rooms.

(4) Animals are not allowed in the **Work Room**, except for patrol dogs accompanying security or police officers and service animals.

(5) The **Work Room** must have a minimum of fifty (50) foot-candles of light measured at the level where the **Procedure** is implemented. Spot lighting may be used to achieve this degree of illumination.

(6) The **Work Room** must have adequate ventilation. If heating ducts, vents, or air conditioners discharge into the **Work Room**, the intakes for such venting must be filtered, and the filters must be maintained to minimize airborne dust and insects.
Openings to the outside must be protected by such means as self-closing doors, screened or closed windows or air current devices to protect against the entrance of insects, rodents or other animals. Screening material must not be less than sixteen (16) meshes to the inch.

The Work Room must have a Hand Washing Facility unless there is a Hand Washing Facility outside the Work Room within 10 feet of the Work Room door.

(A) If the Hand Washing Facility is outside the Work Room, the Work Room door must be a two way self-closing door.

(B) The Hand Washing Facility cannot be located in the same room as the toilet.

(C) If controls for wrist or foot activation are not available, Single-use towels must be used for turning controls off after washing hands.

(D) The Hand Washing Facility must be sanitized at least once each day that the Body Art Establishment is in operation.

(E) The sink must be provided with hot and cold running water by means of a mixing valve or combination faucet, except as provided in accordance with the provisions of Section 9(1C) of this rule.

(F) Any self-dispensing, slow closing or metering faucet used must be designed to provide a flow of water for at least twenty (20) seconds without the need to reactivate the faucet.

(G) Steam mixing valves are prohibited.

(H) Soap must be conveniently located to the hand sink.

(I) Single-use towels or a hand drying device must be conveniently located for drying hands.

The Work Room must have a sufficient number of waste receptacles for the disposal of waste materials.
(A) Waste receptacles must be covered except while in use to prevent contamination.

(B) Waste receptacles must be emptied daily.

(C) A dedicated container for the disposal of sharps and a dedicated container for biomedical waste must be located in the Work Room in accordance with the provisions of Section 17 of this rule for disposal of infectious material.

(10) The Work Room must be maintained in a clean condition.

(11) The floor of the Work Room must be constructed of smooth and impervious materials that are easily cleanable and in good condition. The floor must be wet-mopped daily.

(12) Tobacco use, eating, or drinking is prohibited in the Work Room, except eating and drinking when needed for first aid purposes.

Section 9 - Temporary or Mobile Establishments

(1) A Temporary or Mobile Body Art Establishment may be operated if:

(A) The Operator submits to the Board or its designee a written plan that demonstrates how the Temporary or Mobile Body Art Establishment will meet the provisions of these rules, or will use alternatives that provide equivalent protection as provided by these rules; and

(B) The Board or its designee issues written approval of the plan.

(C) A Temporary or Mobile Body Art Establishment that cannot provide mechanically heated water may provide temperate water for hand washing as long as the water is provided in a system that is constructed and operated in accordance with applicable state and local statutes and rules for potable water.

(2) A Temporary or Mobile Body Art Establishment that cannot meet the requirements of the provisions of Section 6 of this rule may use an
acceptable portable toilet unit with Approved final waste disposal that complies with the applicable state and local laws.

Section 10 - Equipment and Supplies

(1) Equipment, tools and Jewelry must be clean, in sound condition, and free of rust. Sharp instruments and tools must not be dull. Defective needles must not be used.

(2) Single-use or disposable items must be used only once and then discarded.

(3) Gloves that come into contact with a Client must be Single-use non-latex examination gloves designed for medical or clinical use.

(4) A durable tray must be maintained in the Work Room for the placement of used articles which require cleaning and autoclaving.

(5) Single-use needles must be disposed of in a sharps disposal container that meets the requirements of the provisions of Section 17 of this rule.

(6) The Operator must maintain at all times enough sterile supplies, disinfectant, Antiseptic and gloves for three working days.

(7) Work tables, counter tops and Client contact surfaces must be:

(A) Constructed of material that is easily cleanable, smooth, nonabsorbent, and corrosion resistant; and

(B) Cleaned and sanitized with a disinfectant between Clients.

(8) Equipment, supplies, and other materials that come into contact with the Client must be stored in closed clean containers or clean cabinets.

(9) Disinfectants, cleaning compounds, pesticides and other chemicals must be stored in such a manner that prevents contamination of equipment, supplies, and work surfaces. Chemical containers must be clearly labeled with the common name of the material. Chemicals must be used in a manner consistent with the manufacturer's labeling.
(10) Tables, trays and equipment may not be shared among Artists serving different Clients at the same time.

(11) Jewelry must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold; niobium, titanium, or platinum; or a dense low-porosity plastic which is free of nicks, scratches, or irregular surfaces.

Section 11 – Bloodborne Pathogen Exposure Control

(1) A Body Art Establishment employing at least one Artist shall meet the standards for bloodborne pathogen exposure control as promulgated under 29 C.F.R. 1910.1030. Copies of 29 C.F.R. 1910.1030 may be obtained by contacting the Board.

Section 12 - Sterilization of Equipment and Jewelry

(1) All non-disposable instruments used for Tattooing or Body Piercing that can come into contact with blood or body fluids must be individually wrapped and sterilized by an autoclave. All disposable instruments that come into contact with blood or body fluids used for Procedures must come from the manufacturer individually wrapped and sterile.

(2) All Jewelry must be sterilized or disinfected by at least one of the following methods:

(A) Individually wrapped and autoclaved; or

(B) Come from the supplier individually wrapped and sterile,

(3) Whenever an autoclave is used, the following requirements apply:

(A) Autoclave packaging and a testing indicator for verifying temperatures must be used each time the autoclave is used; and

(B) The autoclave must be allowed to run a complete cycle for twenty (20) minutes at fifteen (15) pounds pressure at a temperature of
250°F (121°C), or in accordance with the manufacturer’s instructions.

(C) After autoclaving, the package must be date marked and initialed by the Artist. If the autoclaved instrument or Jewelry is not used within six (6) months of the sterilization date, or if the packaging is no longer intact, the article must be rewrapped and re-sterilized before use.

(D) Monthly biological monitoring of the autoclave must be conducted using a standard Spore Test that is analyzed by a certified laboratory.

(E) Monthly spore testing must be posted in a conspicuous place.

(F) In the event of a failed Spore test, the Operator must immediately cease use of the autoclave and contact the Board or its designee within one business day; and

(G) The Board or its designee may require that an Operator submit the results of a monthly Spore test directly to its office if the establishment fails to perform a monthly Spore test or has one or more failed Spore tests.

(H) Following sterilization, equipment and Jewelry must remain in the autoclave packaging until used.

(4) Sterile packages may only be opened in full view of the Client.

Section 13 - Cleaning and Ultrasonic Use

(1) All non-disposable instruments used for a Procedure must be cleaned thoroughly with an appropriate soap or detergent and rinsed completely with potable water.

(2) Each Body Art Establishment must have at least a one-compartment sink with hot and cold running water for the cleaning of instruments. The sink must be of an adequate size to submerge the instruments being...
cleaned, except as provided under the provisions of Section 13(3) of this rule.

(3) **Body Art Establishments** that use ultrasonic units with heating elements to clean their instruments are not required to have hot water at the cleaning sink, provided the heating elements can heat the cleaning solution and maintain the temperature according to manufacturer's specifications.

(4) An ultrasonic cleaning unit must be used in accordance with the manufacturer's instructions. An ultrasonic cleaning unit does not satisfy the sterilization requirements under the provisions of Section 12 of this rule, with or without the addition of chemical sanitizers.

(5) Cleaning, dusting, or vacuuming is prohibited during times when **Clients** are being tattooed or pierced.

**Section 14 - Skin Preparation, Aseptic Technique and Aftercare**

(1) Appropriate **Aftercare Instructions** for a **Procedure** that describe effective means of infection prevention must be provided to the **Client** both verbally and in writing before every **Procedure**.

(2) At all times during the **Procedure**, **Artists** must use sterile instruments as specified under the provisions of Section 12 of this rule, and **Aseptic Techniques**.

(3) Before and after performing the **Procedure**, **Artists** must remove all rings, thoroughly wash their hands, wrists and lower arms in warm running water with soap for at least 20 seconds, scrubbing around and under their fingernails, rinse completely, and dry with a clean **Single-use towel**.

(4) **Artists** must wear a clean outer garment. A hair restraint must be worn if necessary to prevent the **Artist's** hair from contact with the **Client**. All necklaces, bracelets or other personal items of the **Artist** must be removed or covered by the outer garment or sterile gloves to prevent the item from coming into contact with the **Client**.

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If it is necessary to shave the Client's skin area to be tattooed or pierced, the Artist must use Single-use razors. Straight razors, electric razors and replaceable blade units may not be used. After shaving the Client's skin, the Artist must:

(A) Wash and scrub the Artist's hands as described under the provisions of Section 14 of this rule; and

(B) Wash and rinse the Client's area of skin that was shaved.

If the Artist wore gloves to wash or shave the Client's skin the Artist must discard those gloves after completing those tasks. The Artist must then put on a new pair of gloves before continuing the Procedure.

The skin and surrounding area where the Procedure is to be done must be thoroughly dampened with an Antiseptic using a clean Single-use cotton ball, gauze or tissue.

If it is necessary to use a marking device, the marking device must be a Single-use marking device discarded after use on a Client or it must be autoclaved between uses. New gloves must be put on before each Procedure.

If the Artist's gloved hands become contaminated during the Procedure, then the Artist must rewash and re-glove before resuming the Procedure. As an example, and not by way of limitation:

(A) Inadvertent contamination of gloved hands may include touching eyes, nose, or mouth, answering the phone, opening a door, or retrieving an item from the floor.

(B) If the Artist sustains a needle stick, the Artist must follow the Body Art Establishment's post exposure plan.

(C) The Artist must inform the Client of the needle stick and get permission from the Client to resume the tattooing or body piercing procedure.
(D) If the Artist and the Client choose to resume the tattooing or body piercing procedure, the Artist must do so with clean and sterile equipment and after rewashing and re-gloving hands.

(10) In the event of blood flow, all products used to stop the flow of blood or to absorb blood must be sterile, Single-use, and discarded in accordance with the provisions of Section 17 of this rule.

(11) Upon completion of the Procedure, each Artist must apply an Antiseptic solution to the Procedure area with a clean Single-use cotton ball, gauze, or tissue. In the case of a tattoo, the Artist must then apply a sterile absorbent bandage to the tattooed site.

Section 15 - Tattooing: Pattern Transfer

(1) If the method of pattern transfer involves a reusable plastic or acetate stencil, the stencil must be cleaned and sanitized immediately prior to the application.

(2) An adherent or emollient applied to facilitate a pattern transfer, or to cover a pattern after transfer, must be from a Single-use or must be extracted from a supply container in a manner to prevent contamination of the adherent or emollient supply.

Section 16 - Tattooing: Colors, Dyes, and Pigments

(1) Each Artist shall use colors, dyes and pigment from reputable suppliers designed for Tattooing, stored in appropriate clean and sterile containers, and labeled with the manufacturer and lot number.

(2) Pigments mixed or prepared in the Body Art Establishment must be prepared and stored in accordance with the manufacturer’s instructions.

(3) Each Artist and Body Art Establishment that becomes aware of a Client who has experienced an apparent reaction, allergy, or sensitivity to a pigment used in Tattooing must report the condition and pigment information to the Board or the Montana Department of Public Health and Human Services, Food and Consumer Safety Section, Cogswell Building, P.O. Box 202951, Helena Montana 59620-2951. Adulterated
pigments or those containing deleterious substances may be subject to voluntary hold, manufacturer recall or other action under the Montana Food, Drug and Cosmetic Act, Mont. Code Ann. §50-31-101 et seq.; the federal Food Drug and Cosmetic Act or other local, state, or federal law.

(4) Pigments or dyes may not be used if they are disapproved or under recall by the United States Food and Drug Administration or the Montana Department of Public Health and Human Services under the Montana Food, Drug and Cosmetic act.

(5) Individual pigment portions and Ink Cups must be used for one Client and then disposed of in accordance with the provisions of Section 17 of this rule.

(6) If additional pigment must be added to an Ink Cup during the Tattooing, the Artist shall wash and re-glove or use a Single-use liner to handle the ink storage container.

Section 17 - Handling and Disposal of Infectious Material

(1) Waste that may have been contaminated with blood or body fluids must be separated from other waste and stored in a container with a biohazard warning label.

(2) An adequate supply of sharps containers must be maintained on the premises. A sharps container must:

(A) Be leak proof, rigid, and strong enough to protect the handler and others from accidental cuts or puncture wounds;

(B) Be closed or capped securely to prevent the loss of contents for disposal; and

(C) Not be filled more than ¾ full.

(3) Waste that may have been contaminated with blood or body fluids, other than sharps, must be placed in moisture-proof Single-use containers or bags of strength sufficient to prevent ripping, tearing, or bursting under normal conditions of use. Also, the bags must be:
(A) Securely tied to prevent leakage or the expulsion of solid or liquid wastes during storage, handling and transportation.

(B) Placed in a durable, leak proof container for storage and transportation.

(4) An Artist must use adequate protections, such as a brush, dust pan or tongs to pick up any broken glassware in the Work Room. After engaging in such cleanup, the Artist must wash hands and re-glove before working with a Client.

(5) Laundry that may have been contaminated with blood or body fluids must be stored separately in a leak proof and closed container prior to cleaning.

(6) All Infectious Waste must be treated and disposed of in accordance with the provisions of the Infectious Waste Management Act, Mont. Code Ann. §§75-10-1001 et seq.

(7) Methods of disposal must be Approved by the Board or its designee.

Section 18 - Restrictions and Prohibitions

(1) A Procedure may not occur if:

(A) Either the Artist or the Client is under the apparent influence of alcohol or other mind-altering drugs;

(B) The Client has not signed the consent form required under the provisions of Section 23 of this rule;

(C) The Client is under the age of 18, without the explicit in-person consent of the client’s parent or legal guardian; or

(D) The Client or Artist has an active infection that may come into contact with the site of the Procedure.

(2) If the Client is under the age of eighteen (18), the parent or legal guardian must accompany the Client throughout the Procedure.
(3) A written physician referral is required before a Procedure if the Client:

(A) Is taking any drug or dietary supplements that may induce bleeding tendencies or reduce clotting;

(B) Has a medical condition that is known to cause bleeding tendencies or reduce clotting;

(C) Shows signs of recent intravenous drug use;

(D) Has sunburn, a skin disease such as psoriasis or eczema, a skin infection, or lesions such as a mole at the proposed Procedure site; or

(E) Discloses or evidences allergies or contact sensitivity to pigments, soaps, or other substances used in the Procedure.

(4) The Artist may delay the Procedure or require a medical referral before conducting any Procedure for any person whose physical health, understanding or judgment may be in question.

(5) Extreme Body Modification includes, but is not limited to, scarification, branding, cutting, implantation, and suspension are considered a medical or surgical procedure and prohibited acts in Body Art Establishments

Section 19 - Body Piercing: Additional Requirements and Restrictions

(1) If the Client is under the age of three, the Client’s parent or legal guardian must be given verbal and written warning of the inherent choking hazard of the Jewelry before the Body Piercing. This warning may be included on the consent form.

(2) For the purposes of this chapter, Body Piercing does not include the following:

(A) The practice of electrology defined in Mont. Code Ann. §37-31-101(4);
(B) The practice of a physician or licensed medical provider as long as the person does not hold himself or herself out as a Body Piercer;

(C) The practice of acupuncture;

(D) Other types of Extreme Body Modifications, including but not limited to cutting muscle to make a permanent split, such as tongue-splitting, cutting into bone, trepanation (drilling into the skull), dental modification, amputation, implants, saline injection, vacuum pumping, circumcision, castration, penectomy, and sub incision of genitals.

Section 20 - Body Piercing: Ear Lobe Piercing Exemptions

(1) Establishments that perform Ear Lobe Piercing only, by using a mechanized pre-sterilized ear-piercing system Approved by the Board, may be exempt from the provisions of Section 7(1)(C), Section 8(1), (3), and (6), Section 14 (3), (12) of this rule, as long as:

(A) The Work Area in which Ear Lobe Piercing takes place is separated enough from other areas so that no physical contact can be reasonably expected to occur between the general public and the Client or Artist;

(B) A minimum of thirty (30) foot candles of light must be provided at the level where the Ear Lobe Piercing is being performed. Spot lighting may be used to achieve this degree of illumination; and

(C) The Artist and Client must have convenient access to Hand Washing Facilities. If the Hand Washing Facility is not within the Work Room or within ten feet of the Work Room door, then (70%) alcohol-based hand sanitizer must be used in accordance with the U.S. Centers for Disease Control “Guideline for hand hygiene in health-care setting” (Morbidity and mortality weekly reports, 2002, vol. 51, no. RR-16) immediately before putting on gloves and immediately after removal of the gloves. The Board adopts and incorporates by reference the U.S. Centers for Disease Control “Guideline for hand hygiene in health-care
setting” (Morbidity and mortality weekly reports, 2002, vol. 51, no. RR-16). Copies of this guideline may be obtained from the Board.

(2) **Ear lobe piercing establishments** may omit the complications of excessive bleeding, muscle paralysis, nerve paralysis, tooth fracture, heavy metal poisoning, throat closure and tongue swelling.

**Section 21 - Record Keeping and Review**

(1) **Client** records, consent forms, autoclave sterilization test results and other records required by this rule must be maintained by the Artist and the **Body Art Establishment** for a minimum of three (3) years. The records must be:

(A) Available for review and verification by the Board or its designee.

(B) The records must be typed or printed in ink.

**Section 22 - Client Record**

(1) The operator must maintain a **Client** record for each **Client**. At a minimum, the **Client** record must include:

(A) A copy of the signed consent form required under the provisions of Section 23 of this rule;

(B) The name of the **Artist** who performed the **Procedure**;

(C) The address, telephone number and name of the establishment;

(D) Special instructions or information regarding the **Client’s** medical or skin conditions which are relevant to the **Procedure**; and

(E) A written physician referral if a referral is required under the provisions of Section 18 of this rule.
Section 23 - Consent Form

(1) The Client must sign a consent form before each Procedure. If the Client is under the age of 18, then the Client's parent or legal guardian must sign the consent form, in person before the Procedure.

(2) The Operator shall request proof of age prior to performing a Procedure on any Client. Proof of age is established by one of the following:

(A) A valid driver’s license or identification card issued by a government entity including the photograph and date of birth of the Client or legal guardian;
(B) A valid military identification card issued by the United States Department of Defense;
(C) A valid passport; or
(D) A resident alien card.

(3) The consent form must contain:

(A) The Client’s name and address, the date of the Procedure, the design of the tattoo if applicable, the location of the Procedure on the Client’s body, and any other information that the Artist may consider appropriate;

(B) A description of potential complications and side effects, including abscesses, allergies, excessive bleeding, heavy metal poisoning, infection, keloid formation, muscle paralysis, nerve paralysis, scarring, blood borne pathogens, tongue swelling, throat closure and tooth fracture;

(C) Symptoms of infections such as fever, swelling, redness, or other complications that may occur;

(D) The permanent nature of either tattoos or specific piercings or both;

(E) Instructions to consult a licensed medical provider if symptoms of infection or complications occur; and
(F) The contact information for RiverStone Health to report any adverse reactions from the Procedure and to report any complaints.

(G) A statement by the client that the client:

(I) Has been provided with written and verbal Aftercare Instructions from the Artist; and

(II) Consents to the Procedure.

Section 24 – Training

(1) Operators and Artists and Apprentices must complete formal training in at least general sanitation, first aid and universal precautions for preventing transmission of blood borne pathogens before licensure. Training may be provided by the Board or its Approved designee or an organization Approved by the Board or its Approved designee as having adequate content.

Operators, Artists and Apprentices must maintain current training certification with Approved providers for first aid and universal precautions for preventing the transmission of blood borne pathogens and follow certifying organizations guidelines for expiration and renewal.

(2) Guest Artists and new Artists must complete formal training and provide the inspecting authority with documentation of this training prior to working in a Body Art Establishment.

(3) Each formal training course must provide written documentation to trainees indicating successful completion of the course.

Section 25 – License Requirement and Display

(1) It shall be unlawful for any person within Yellowstone County who does not have a valid license issued by the Board to operate a Body Art Establishment or perform Body Art. Only a person who complies with the requirements of this regulation shall be entitled to receive or retain such a license.
(2) A valid license shall be posted in each Body Art Establishment and by each Artist.

(3) Licenses are not transferrable from one location to another or from one Operator to another.

Section 26 – License Application

(1) Any person desiring to operate a Body Art Establishment or perform Body Art must submit an application for a license on forms provided by the Board or its designee. The application must include the name and address of the Applicant, and the location and type of the proposed Body Art Establishment.

(2) The Applicant of the license and all Artists working in the proposed Body Art Establishment shall be at least eighteen (18) years of age.

(3) Prior to approval of an application for a license, the Yellowstone County Health Officer or his or her representative shall inspect the proposed Body Art Establishment to determine compliance with the requirements of this regulation.

(4) The Board will issue a license to the Applicant if the Applicant demonstrates that the proposed Body Art Establishment complies with all applicable requirements of this rule by plan review, inspection and upon receipt of a license fee as determined by the Board.

(5) The license holder must inform the Board of any changes in staff in the Body Art Establishment. The Artist must inform the Board of any change in location where Body Art is being performed.

(6) Obtaining a license from the Board does not relieve the Applicant from satisfying applicable requirements from other federal, state, or local agencies. These requirements may include, but are not limited to:

(A) Building code permits and inspections;

(B) Fire and Life Safety inspections; and
Section 27 – Review of Plans

(1) Whenever an Operator applies for a license, properly prepared plans and specifications must be submitted to the Board or its designee for review and approval before construction, remodeling or conversion begins.

(2) The plans and specifications must demonstrate how the Body Art Establishment or Artist will meet compliance with the requirements of this sub section, including the following:

(A) A layout of Work Rooms, waiting areas, auxiliary rooms, toilet rooms, Hand Washing Facilities, doorways, stairways, fixed equipment, and facilities;

(B) Specifications for any autoclave that may be used, including manufacturer and model number;

(C) Copies of the Client consent form, parental or legal guardian consent form, Client record form, and all applicable Aftercare Instructions; and

(D) Copies of formal training documentation as described in Section 24.

(3) If the Board or its designee disapproves the plans, the Board or its designee will make the deficiencies known to the Applicant.

(4) If the facility was previously licensed or certified by the Board as a Body Art Establishment and no structural modification is involved, the Board may waive the requirement for submission of plans.

(5) If the Body Art Establishment adds an Artist, the Body Art Establishment may be subject to plan review to ensure the Body Art Establishment meets all requirements of Rule #5.
(6) Changes in the Client consent form, parental or legal guardian consent form, Client record form, and all applicable Aftercare Instructions must be submitted to the Board or its designee before implementation.

Section 28 – Inspection

(1) The local Health Officer or representative, after proper identification, must be permitted to enter any Body Art Establishment or inspect any Artist at a reasonable time for the purpose of determining compliance with these regulations and must be permitted to examine the records of the Body Art Establishment or Artist pertaining to compliance with this regulation.

(2) The local Health Officer or representative shall perform an inspection of each Body Art Establishment and Artist within Yellowstone County at least once every twelve (12) months. Additional inspections of the Body Art Establishment or Artist shall be performed as often as necessary for enforcement of this regulation. The Board will charge a follow-up fee for a third or subsequent inspection it may conduct if a Violation is not corrected by the end of the second visit to the Body Art Establishment or Artist.

(A) Follow-up fees shall be set and determined by the Board.

(3) Whenever an inspection of a Body Art Establishment or Artist is made, the findings will be recorded on an inspection form authorized by the Board. A copy of the completed inspection report form will be given to the person in charge of the Body Art Establishment or Artist within ten (10) days of the inspection.

(A) The inspection report form will summarize the requirements of this regulation. Inspection comments must be written to reference the item violated and must state the correction to be made;

(B) The completed inspection report form must specify a reasonable period of time for the correction of the Violation(s) found. Correction of the Violation(s) must be accomplished within the period specified;
(C) The inspection report will state that failure to comply with any time limits for corrections of any Violation(s) may result in cessation of Body Art Establishment or Artist operations and revocation of the license;

(D) The completed inspection report form is a public document that must be made available for public review or distribution upon payment of reasonable copying costs.

Section 29 – License Fee and Expiration

(1) The license fee shall be determined and set by the Board.

(2) The license will expire annually on December 31 following the date of issue. A late fee shall be charged for failure to submit a license renewal fee prior to the expiration date of the Body Art Establishment’s or Artist’s current license. A late fee shall be charged in accordance with the fee set by the Board.

Section 30 – License Denial, Suspension and Cancellation

(1) The Board may suspend, cancel or revoke a license if it is determined that the licensee has violated this regulation and the licensee has failed or refused to remedy or correct the Violation(s).

(2) A license may not be denied, cancelled or revoked by the Board without delivery to the Applicant or licensee a written statement of the grounds for denial, cancellation or the charge involved and an opportunity to answer at a hearing before the Board to show cause, if any, why the license should not be denied, cancelled or revoked. In such case, the licensee must make a written notice to the Board for a hearing within ten (10) days after notice of the grounds or charges has been received.

(3) Right to appeal license denial, suspension, cancellation or revocation: a licensee has the right of direct appeal to the Board. The aggrieved party must submit a written notice of intent to appeal to the Board within twenty (20) days of receipt of notice. Failure to file a timely notice of appeal shall result in a forfeiture of this right.
(4) **Hearing:** a public hearing shall be scheduled once the aggrieved public party has filed a timely notice of appeal. The **Board** shall notify the aggrieved party and the Health Officer of the date, time, and location of the scheduled hearing. At the hearing, the aggrieved party may appear in person, with an advocate, or submit a written statement. The purpose of the hearing will be to determine whether the licensee’s license should be revoked, denied, suspended, or cancelled. The proceeding shall be recorded within fifteen (15) days of the hearing and the **Board** shall mail a letter which includes the reasons for their decision to the aggrieved party. This decision is final.

(5) **Burden of proof:** at the hearing the aggrieved party bears the burden of proof to convince the **Board** that the aggrieved party’s licensee should be reinstated. The aggrieved party has the right to produce evidence.

**Section 31 – Severability**

(1) If any provision of this regulation is held invalid, all other valid provisions remain in effect.

**Section 32 – Variance**

(1) A licensee may request a variance to waive or modify requirements of this subchapter by petitioning the **Board**. An application for a variance must contain:

(A) A statement of the proposed variance from the chapter’s requirement, citing the relevant rule numbers; and

(B) A rationale explaining how the potential public health hazards addressed by the relevant rules will be alternately addressed by the proposal.

(2) The **Board** may grant a variance by modifying or waiving the requirements of this rule if, in the opinion of the **Board**, a health hazard will not result from the variance.

(3) The failure to continuously demonstrate compliance with a variance or modification may result in license revocation or non-validation.
(4) The **Board** reserves the right to deny or revoke a variance if in its judgment, the granting or continuation of the variance will adversely affect public health, safety and welfare or create a potential health risk.

**Section 33 – Violations, Penalties, and Enforcement**

(1) Any license granted under this regulation which is based upon, or is issued in reliance upon, any misrepresentation or failure to make a material fact or circumstance known, or that have been known, by the **Applicant** or his or her agent, shall be void.

(2) Any person who violates any provision of this regulation or any provision of any regulation adopted by the **Board** pursuant to the authority granted by this regulation, shall, be subject to applicable civil and criminal penalties as described in Mont. Code Ann. §§50-48-101 et seq.

**Section 34 – Conflict of Ordinances**

(1) In any case where a provision of this regulation is found to be in conflict with a provision of any zoning, building, fire, safety, or health regulation or code of Yellowstone County, or any municipality within Yellowstone County, existing on the effective date of this regulation, the provision which, in the judgment of the Health Officer, establishes the higher standard for the protection of the health and safety of the people, shall prevail.

(2) In any case where a provision of this regulation is found to be in conflict with a provision of any other ordinance or code in Yellowstone County, or any municipality within Yellowstone County, on the effective date of this regulation, the provisions of this regulation shall be deemed to prevail and such other provisions of any ordinances or codes are hereby declared to be superseded to the extent that they may be found in conflict with this regulation.

(3) If any Section, paragraph, sentence, clause or phrase of this regulation should be declared invalid for any reason, such invalidity shall not affect the remaining portions of this regulation, which shall remain in full force
and effect, and to this end. The provisions of this regulation are hereby declared to be severable.

Passed and adopted by the Board this 5th day of December, 2013.

Attest:

Board Chair