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**RULES AND REGULATIONS
FOR
BODY ART
RULE #5**

Yellowstone City-County Health Department
dba Riverstone Health

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

5th Revision, Jan. 1st, 2021

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Preamble

Yellowstone City-County Health Department dba RiverStone Health, is a multi-jurisdictional service district created under an inter-local agreement among the City of Billings, Montana (“Billings”), the City of Laurel, Montana (“Laurel”), and Yellowstone County, Montana (“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 inter-local 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 §50-2-101, MCA *et seq.* (“Health Department Functions”). That power includes the authority to appoint a local Health Officer (“Health Officer”) who possesses the powers and duties enumerated under §50-2-118, MCA.

The provisions of §50-48-203, MCA permit the **Board** to operate its own licensure and regulatory program for **Tattooing** and **Body Piercing** establishments in lieu of that of the Montana Department of Public Health and Human Services (“DPHHS”). The **Board** may adopt necessary regulations that are not less stringent than DPHHS rules adopted under §50-48-103, MCA. The rule may include, but is not limited to: standards to ensure sanitation and safety in establishments to protect public health and safety; licensure of establishments; procedures for enforcement of the laws and rules relating to establishments, including the implementation of plans of correction; and 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 October 22, 2020 the **Board** adopted written finding that based on the evidence in the record, implementing the provisions of this rule protects the public health or environment; and the Board requirements and standards imposed can mitigate harm to the public health or the environment and is achievable under current technology. The written findings referenced information and peer-review scientific studies contained in the record that formed the basis for the **Board’s** conclusion and includes information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed local standard or requirement outlined in this rule.

Purpose of the Regulations

~~There are health and safety risks associated with the procedures and practices of **Tattooing** and **Body Piercing**.~~ Safe and sanitary conditions of the **Tattooing** and **Body Piercing** industry are necessary for the prevention of the transmission of bloodborne pathogens, including, but not limited to, Hepatitis B Virus and Human Immunodeficiency Virus. Implementing the provisions of Rule #5 protects the public health, safety, and welfare by setting forth minimum standards for the practice of **Tattooing** and **Body Piercing** in Yellowstone County. It is with this in mind that the Board has adopted the following regulations.

Section 1 – Authority and Scope of Rules

- 1.1 This rule is written pursuant to the authority granted to local boards of health under. §50-48-203, MCA to implement a licensure and regulatory program for **Body Art**, independent of and in lieu of State statutory or regulatory authority.
- 1.2 This rule covers tattoo studios, **Permanent Cosmetic** studios, salon and spas that offer **Cosmetic Tattooing**, temporary or mobile tattoo facilities, and the “practice of tattooing” in Yellowstone County.
- 1.3 This rule covers all piercing studios, temporary or mobile piercing facilities, salons and spas that offer piercing, and the “practice of piercing” in Yellowstone County.
- 1.4 This rule covers all individuals who engage in the practice of **Tattooing** and/or **Body Piercing** in Yellowstone County.
- 1.5 Any license issued to a **Body Art Establishment** or **Body Artist** 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.
- 1.6 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

All provisions established under this rule are effective as of January 1, 2021.

Section 3 – Definitions

- 3.1 **Aftercare Instructions** means recommended instructions specific to the **Body Art Procedure(s)** given to the client to follow to prevent infection and promote healing of the **Procedure Site** and surrounding area. These instructions will include information about when to seek medical treatment.
- 3.2 **Antiseptic** means a product applied to the skin that kills or inhibits the growth of disease-causing microorganisms present on the skin and/or mucosal surfaces of humans. This includes products labeled as “antiseptic”, “antimicrobial”, “antibacterial”, “microbicide”, “germicide”, or similar terms. These products should comply with Section 201(g)(1)(B) of the Federal Food Drug and Cosmetic Act.
- 3.3 **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**.
- 3.4 **Aseptic Technique** means a set of practices and procedures performed under controlled conditions that prevent the contamination by pathogens.
- 3.5 **Autoclave** means a device that utilizes steam as a method of sterilization and which has been designed and classified by the manufacturer as a class 2 medical **Instrument** sterilizer and used for the destruction of microorganisms and their spores.
- 3.6 **Biomedical Waste** for the purpose of this rule, **Biomedical Waste** is the same as **Infectious Waste** (see 3.29).

3.7 **Bloodborne Pathogen** means microorganisms that are present in human blood and can cause disease in humans. **Bloodborne Pathogens** include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV) and human immunodeficiency virus (HIV).

3.8 **Board** or **Board of Health** means the Yellowstone City-County Board of Health.

3.9 **Body Art** means the practice of physical body adornment, including **Tattooing, Permanent Cosmetics, Body Piercing** and **Ear Lobe Piercing**. **Body Art** does not include practices that are part of a medical procedure performed by **Board** certified medical or dental personnel. This definition does not include **Extreme Body Modification** (see 3.24).

3.10 **Body Artist** or **Artist** means a person performing **Body Art** procedures, including tattooing, permanent cosmetics, **Body Piercing** and **Ear Lobe Piercing**. A person who is being trained, such as an apprentice, meets the definition of a **Body Artist** if they are performing procedures on any person.

3.11 **Body Art Establishment** or **Establishment** means any place or premises, public or private, temporary or permanent, for profit or not, where the practice of **Body Art** is performed.

3.12 **Body Piercing** means any method of piercing the skin or mucosa to place jewelry through the skin or mucosa.

3.13 **Clean Room** means the room used to sterilize **Instruments** and jewelry with an **Autoclave**.

3.14 **Client** means an individual upon whom a **Body Artist** performs a **Body Art Procedure**.

3.15 **Contaminated** means the presence or reasonably anticipated presence of blood or other potentially infection materials on an item or surface.

3.16 **Consent Form** means a written or electronic document describing potential complications of a **Body Art Procedure** which is signed by the **Client** prior to the **Procedure**.

3.17 **Cosmetic Tattooing** see **Permanent Cosmetics**.

3.18 **Disinfect** means to destroy pathogenic or other kinds of microorganisms by physical and/or chemical means.

3.19 **Disinfectant** means a product that is tuberculocidal and registered by the U.S. Environmental Protection Agency (EPA), as indicated on the label for use for disinfection.

3.20 **Ear Lobe Piercing** means the piercing of the non-cartilaginous lobe of the ear, using an **Ear Piercing Gun**.

3.21 **Ear Piercing Gun** means a stud and clasp ear piercing system. This system may only be used on the non-cartilaginous lobe of the ear.

3.22 **Easily Cleanable** means a characteristic of a surface that allows effective removal of soil by normal cleaning methods.

3.23 **Equipment** means all machinery, including fixtures, containers, vessels, **Instruments**, hand tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in conjunction with the operation of a **Body Art Establishment**.

3.24 **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, suspension, 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.

3.25 **Guest Artist** means an individual who performs **Body Art** in a licensed **Body Art Establishment** for no more than 30 consecutive days.

3.26 **Hand Washing** means the act of cleaning one's hands for the purpose of removing dirt, soil, and microorganisms through the use of soap, warm water, and friction.

3.27 **Hand Washing Station** means a sink used solely for hand washing and equipped with hot and cold water under pressure, soap, single-use towels, and a covered waste receptacle, used solely for washing hands, arms or prosthetics.

3.28 **Hot Water** means water that attains and maintains a temperature between 100 degrees F and 120 degrees F.

3.29 **Infectious Waste** is defined in §75-10-1003(4) MCA as waste capable of producing infectious disease. **Infectious Waste** includes but is not limited to cultures and stocks of infectious agents and associated biologicals; human pathological waste, including tissues, organs, and body parts removed during surgery or an autopsy; free-flowing waste human blood and products of blood, including serum, plasma, and other blood components and items soaked or saturated with blood; and **Sharps** that have been used in patient care, medical research, or industrial laboratories.

3.30 **Ink Cup** means a small **Single-use** container in which a small amount of pigment of a given color is placed.

3.31 **Inspector** means any agent or representative acting on behalf of the Health Officer.

3.32 **Instrument** means hand tools, needles, needles bars, forceps and other tools that could come in contact with a **Client's** body or be exposed to blood or bodily fluids during a **Procedure**.

3.33 **Jewelry** means any ornament that is worn through a body or **Ear Lobe Piercing**.

3.34 **Mobile Body Art Establishment** means a licensed **Body Art Establishment** that is self-propelled or otherwise movable from place to place and operated by a licensed **Body Artist** who performs **Body Art** procedures.

3.35 **Operator** means any person who controls any interest in, operates or manages a **Body Art Establishment** and who is responsible for the compliance with this rule whether or not actually performing **Body Art** procedures.

3.36 **Permanent Cosmetics** means a **Tattoo**, whether permanent, semi-permanent, or temporary, by someone other than a licensed **Physician**, which includes but is not limited to eyebrows, eyelids, lips, and other parts of the body for beauty marks or hair imitation. This term includes any **Procedure** whether referred to as, but not limited to, "permanent makeup", "microdermapigmentation", "micropigment implantation", "microblading", "microneedling with the use of pigment", "dermagraphics", "cosmetic tattooing", or other similar **Procedures** and for the purpose of the rule is a **Tattoo**.

3.37 **Physician** means a person licensed by the Montana Board of Medical Examiners to practice medicine in the State of Montana.

3.38 **Procedure** means the act of performing **Body Art**.

3.39 **Procedure Area** means a room or portion of a room, or any surface of an inanimate object, that is designated to be used only to perform **Body Art**. A **Procedure Area** includes, but is not limited to, the **Client** chair or table, counter, stand, **Instrument** tray, storage cabinet, lighting fixtures, **Body Artist's** chair and **Hand Washing Station**.

3.40 **Procedure Site** means the area or location on the **Client's** body selected for the placement of **Body Art**.

3.41 **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.

3.42 **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.

3.43 **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**.

3.44 **Single-use** means items that are intended for one-time, one-person use and are disposed of after use, 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.

3.45 **Spore Test** means a bacterial endospore test designed to assess whether sterilization has occurred.

3.46 **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.

3.47 **Tattoo** means the mark resulting from the act of **Tattooing**.

3.48 **Tattooing** means any method of placing ink or other pigment into or under the skin or mucosa by the use of needles or any other method to puncture the skin, resulting in permanent or temporary coloration of the skin or mucosa. **Tattooing** includes **Permanent Cosmetics**.

3.49 **Temporary Body Art Establishment** means any place or premise operating at a fixed location where a **Body Artist** performs **Body Art** procedures for no more than 14 days in a calendar year.

3.50 **Universal Precautions** 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.

3.51 **Violation** means failure to comply with any provision of Rule #5 or §50-48, MCA.

Section 4 – Facility Requirements

4.1 General Requirements

4.1.1 The **Establishment** must be maintained in good repair at all times during all hours of operation.

4.1.2 **Procedure Areas**, restrooms, **Hand Wash Stations**, **Clean Room**, waiting areas, and all other areas to which **Clients** have access, must be kept clean and free of garbage, litter, unnecessary articles, dust, dirt, pests and sources of airborne dust or fumes.

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

4.1.4 All rooms in the **Establishment** must be provided with an artificial light source equivalent to twenty (20) foot-candles three feet off the floor, except as required for **Procedure Areas** in Section 4.6.5 of this rule.

4.1.5 The **Establishment** may not be operated in any room or area used as living or sleeping quarters. The **Establishment** must be separated from any living or sleeping quarters by solid self-closing doors.

4.1.6 Each **Artist** working in the **Establishment** must have designated **Procedure Area** which complies with provisions of this rule.

4.2 Water Supply

4.2.1 An adequate supply of potable water must be provided.

4.2.2 A non-public water supply system must meet the requirements of Food and Consumer Safety (FCS) Circular 1-2012 when the water supply is constructed after the effective date of the rule, modifications are made to the water system; or the local health authority determines compliance with FCS Circular 1-2012 is necessary to meet the requirements of this rule.

4.2.3 Before a license is issued, an **Establishment** using an individual, shared, or multiple user water supply must submit the following to the department or its designee:

- A satisfactory coliform bacteria and nitrate test results as specified in ARM Title 17, Chapter 38, subchapter 2; and
- The results of an onsite sanitary survey of the water supply system to detect sanitary deficiencies.

4.2.4 A supplier of an individual, shared, or multiple user water supply must conduct the following testing:

- Coliform bacteria test at least twice a year with one sample collected between April 1 through June 30 and the second sample collected between August 1 and October 31;
- Nitrate test at least once every three (3) years;
- Water sample must be analyzed at a certified laboratory; and
- Test results must be retained for at least three (3) years.

4.2.5 A **Public Water System** must be constructed and operated in accordance with applicable laws regulated by the Montana Department of Environmental Quality.

4.2.6 Non-potable water sources must be marked “NOT FOR HUMAN CONSUMPTION.”

4.2.7 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.

4.2.8 A water supply system is determined to have failed and requires treatment, replacement, repair, or disinfection, when the water supply becomes unsafe. A water supply becomes unsafe when it exceeds the maximum contaminant level specified in ARM Title 17, Chapter 38, Subchapter 2, or inadequate when it is found to be less than 20 psi measured at the extremity of the distribution line during the instantaneous peak usage.

4.2.9 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.

4.2.10 Bottled and packaged potable water must be obtained from an approved source and must be handled and stored in a way that protects it from contamination.

4.3 Sewage System and Solid Waste

4.3.1 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.

4.3.2 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 allowed in Section 5 of the rule.

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

- The system fails to accept, treat, or dispose of wastewater as designed;
- Effluent from the wastewater system contaminates a potable water supply or state waters; or
- 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.

4.3.4 Extensions, alterations, replacement, or repair of any wastewater system must be done in accordance with applicable state and local laws.

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

4.3.6 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 4.4 for disposal of **Biomedical Waste**. Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility.

4.4 Biomedical Waste

4.4.1 Waste that may have been contaminated with blood or body fluids is considered **Biomedical Waste** and must be separated from other waste and stored in a container with a biohazard warning label.

4.4.2 An adequate supply of **Sharps** containers must be maintained on the premises. A **Sharps** container must be leak proof, rigid, and strong enough to protect the handler and others from accidental cuts or puncture wounds, be closed or capped securely to prevent the loss of contents for disposal; and not be filled more than $\frac{3}{4}$ full.

4.4.3 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 securely tied to prevent leakage or the expulsion of solid or liquid wastes during storage, handling and transportation, placed in a durable, leak proof container for storage and transportation.

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

4.4.5 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.

4.4.6 All **Biomedical Waste** must be treated and disposed of in accordance with the provisions of the Infectious Waste Management Act §75-10-1005 MCA.

4.5 Toilet Room

4.5.1 Each **Establishment** must have a toilet and **Hand Wash Station** conveniently available to **Clients** and **Artists** during all hours of operation.

4.5.2 The toilet room must meet the following requirements:

- The toilet room must be ventilated, well lighted and equipped with toilet tissue, and waste receptacle;
- The toilet room floors, walls and ceilings must be in good repair and in clean condition;
- The toilet room must be located within 200 feet by a normal pedestrian route of the **Procedure Area** and not more than one floor-to-floor flight of stairs; and
- **Equipment** and supplies used for a **Procedure** must not be stored or used within the toilet room.

4.5.3 The **Hand Wash Station** must be located within 10 feet of the toilet room and meet the following requirements:

- Provided with hot and cold running water by means of a mixing valve or combination faucet, except as provided in accordance with Section 5.2 of this rule;
- If self-dispensing, slow closing or metering faucet is used, it must be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet;
- Steam mixing valves are prohibited;
- Equipped with soap, conveniently located to the sink; and
- Equipped with clean **single-use** towels, mounted to prevent contamination and conveniently located for drying hands and a waste receptacle provided.

4.6 Procedure Area

4.6.1 **Body Art Procedures** may only take place in a designated **Procedure Area**.

4.6.2 The **Procedure Area** must be separated from the waiting areas by a physical barrier, such as a wall, counter, self-closing door or other barrier. The **Procedure Area** must be separated from other operations within the **Establishment**, such as hair and nail services, by a full-length partition.

4.6.3 The **Procedure Area** may not be used as a corridor for access to other rooms.

4.6.4 Animals are not allowed in a **Procedure Area** except for patrol dogs accompanying security or police officers and service animals as defined in the American with Disabilities Act (ADA).

4.6.5 The **Procedure Area** must have a minimum of fifty (50) foot-candles of light measured at the level where the **Procedures** are performed. Spot lighting may be used to achieve this degree of illumination.

4.6.6 The **Procedure Area** must have adequate ventilation. If heating ducts, vents, or air conditioners discharge into the **Procedure Area**, the intakes for such venting must be filtered, and the filters must be maintained to minimize airborne dust and insects.

4.6.7 Openings to the exterior of the building 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.

4.6.8 A **Hand Washing Station** must be located within the **Procedure Area** or within 10 feet of the entry into the **Procedure Area**. Additional requirements include:

- If the **Hand Washing Station** is located outside the **Procedure Area**, the **Procedure Area** door must be a two way self-closing door;
- The **Hand Washing Station** must be separate from that used for the toilet room and cannot be located in the same room as the toilet;
- If controls for wrist or foot activation are not available, **Single-use** towels must be used for turning controls off after washing hands;
- The **Hand Washing Station** must be sanitized at least once each day that the **Establishment** is in operation;
- 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; and
- Steam mixing valves are prohibited.

4.6.9 The **Procedure Area** must have a sufficient number of waste receptacles for the disposal of waste materials. Waste receptacles must be covered except while in use to prevent contamination of hands and gloves and must be emptied daily.

4.6.10 A dedicated container for the disposal of **Sharps** and a dedicated container for **Biomedical Waste** must be located in the **Procedure Area** in accordance with the Section 4.4 of this rule for disposal of infectious material.

4.6.11 The **Procedure Area** must be maintained in a clean condition.

4.6.12 The floor of the **Procedure Area** must be constructed of smooth and impervious materials that are **Easily Cleanable** and in good condition. The floor must be wet-mopped daily.

4.6.13 Tobacco use, eating, or drinking is prohibited in the **Procedure Area**, except eating and drinking when needed for first aid purposes.

Section 5 – Temporary and Mobile Establishments

5.1 A written plan demonstrating how the provisions of these rule will be met and/or how alternatives will be used to provide equivalent protection as required by this must be submitted and approved by the Health Officer.

5.2 The following exceptions may be allowed for a **Temporary or Mobile Body Art Establishment**:

- If mechanically heated water is not available, room temperature water may be used 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.
- If Section 4.5.2 of this rule cannot be met, a portable toilet unit with final waste disposal that complies with the applicable state and local laws may be used.

Section 6 – Equipment and Supplies

6.1 **Equipment** and tools must be clean, in sound condition, and free of rust and not used after their expiration date. Sharp **Instruments** and tools must not be dull. Defective needles must not be used.

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

6.3 A durable tray with a lid must be maintained in the **Procedure Area** for the placement of used articles which require cleaning and autoclaving.

6.4 The **Operator** must maintain at all times enough sterile supplies, **Disinfectant**, **Antiseptic** and gloves for three working days.

6.5 Work tables, counter tops and **Client** contact surfaces must be constructed of material that is **Easily Cleanable**, smooth, nonabsorbent, and corrosion resistant; and cleaned and sanitized with a **Disinfectant** between **Clients**.

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

6.7 **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. Safety data sheet for each chemical must be maintained onsite.

6.8 Tables, trays and other **Equipment** may not be shared among **Artists** serving different **Clients** at the same time.

6.9 **Single-use** items:

- **Single-use** or disposable items must not be used for more than one **Client** for any reason;
- After use, all **Single-use** needles, razors and other **Sharps** must be immediately disposed of in approved container that meets the requirements of the provisions of Section 4.4.2 of this rule;
- All **Single-use Instruments** that come into contact with blood or body fluids used for procedures must come from the manufacturer individually wrapped and sterile;
- All products applied to the skin, including **Body Art** stencils, pens, markers and gloves must be **Single-use**, disposable and discarded after use.

Section 7 – Bloodborne Pathogen Exposure Control

7.1 A **Body Art Establishment** employing one or more **Artist** must meet the standards for **Bloodborne Pathogen** exposure control according to 29 CFR 1910.1030, as promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration. A copy of 29 CFR 1910.1030 may be obtained by contacting RiverStone Health.

7.2 If an **Artist** sustains a needle stick, the **Artist** must follow the **Body Art Establishment's** Exposure Control Plan.

- The **Artist** must inform the **Client** of the needle stick and get permission from the **Client** to resume the **Tattooing** or **Body Piercing Procedure**.
- If the **Artist** and the **Client** choose to resume the **Procedure**, the **Artist** must do so with clean and sterile **Equipment** and after rewashing and re-gloving hands.

Section 8 – Recordkeeping Requirements

8.1 General

8.1.1 All records must be maintained in print or digital form and kept on file on the premises of a **Body Art Establishment** and be readily available for inspection.

8.1.2 The **Establishment** must have a written Exposure Control Plan as required by OSHA, (29 CFR 1910.1030). The plan must describe how to respond to an unintended exposure, such as a needle stick.

8.1.3 Required records include:

- Current certificates for **Bloodborne Pathogens** and first aid training, and a certificate of completion of the Montana Sanitation quiz for each **Body Artist**.
- **Client** records and signed **Consent Forms**.
- Monthly **Spore Test** results from a third party (if an **Autoclave** is in use).
- Reports of all adverse events that have occurred in the **Establishment**.

8.1.4 **Client** records, **Consent Forms**, and monthly **Spore Tests** 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.

8.1.5 Copy the current Rule #5.

8.2 Client Record and Consent Form

8.2.1 The operator must maintain a **Client** record for each **Client**. The **Client** record must include:

- Name, address and telephone number of the **Establishment**;
- Name, address and telephone number of the **Client**;
- Form of identification;
- Special instructions or information regarding the **Client's** medical or skin conditions that are relevant to the **Procedure**;
- Written **Physician** referral if required under the provisions of Section 15.3 of this rule; and
- Signed **Consent Form** for each **Procedure**.

8.2.2 The **Body Artist** must request proof of age prior to performing a procedure on a **Client**. Proof of age is established by one of the following:

- 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;
- Valid military identification card issued by the United States Department of Defense;
- Valid passport; or
- Resident alien card.

8.2.3 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**.

8.2.4 The **Consent Form** must include:

- **Client's** name and contact information;
- Name of the **Body Artist** who performed the **Procedure**;
- Date of the **Procedure**;
- Type of **Procedure**, location on body, design, if applicable; and **Jewelry** style and size, if applicable;
- Any complications that occurred during the **Procedure**;
- The permanent nature of either tattoos or specific piercings or both;
- 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;
- Symptoms of infections such as fever, swelling, redness, or drainage;
- Instructions to consult a licensed medical provider if symptoms of infection or complications occur;
- The contact information for RiverStone Health to report any adverse reactions from a **Procedure** and to report any complaints;
- A statement by the **Client** that the **Client** has been provided with written and verbal **Aftercare Instructions** from the **Body Artist**;
- A signature acknowledging consent to the **Procedure**.

Section 9 – Disinfection and Sterilization Procedures

9.1 All surfaces used in the **Body Art Procedure** must be smooth, free of nicks, cuts and tears and be **Easily Cleanable** and nonporous. Surfaces must be cleaned and then disinfected with a product that is tuberculocidal and registered by the U.S. Environmental Protection Agency (EPA), as indicated on the label for use as a **Disinfectant**.

9.2 Surfaces of **Equipment** with which the **Body Artist** touches during a **Procedure**, such as lamps and control boxes, must be covered with a protective, impermeable barrier. Barriers must be **Single-use** and discarded after each **Client**.

9.3 Devices used to clean and **Sterilize Body Art** materials and reusable **Instruments** must be suitable for the intended use. Devices must be used, cleaned and maintained according to manufacturer's instructions. A copy of the manufacture's recommended procedures for the operation of the equipment must be available for inspection when available from the supplier.

9.4 Reusable **Instruments** must be dismantled, cleaned and **Sterilized** after each use in the sterilization area. **Instruments** must be soaked in an enzymatic solution, scrubbed to remove debris, rinsed, dried, inspected and **Sterilized**. An automated **Instrument** washer may be used to accomplish all steps preceding sterilization.

9.5 Sterilization may be accomplished by one of the following methods:

- Contained in sterilization packaging and **Sterilized**, with the date and cycle number noted on packaging or sterilization strips. Sterilization packaging must have a color-changing chemical indicator;
- **Sterilized**, stored, then repackaged and **Sterilized** again immediately prior to use.

9.6 An **Autoclave** is not required if the establishment uses only pre-sterilized disposable **Instruments**, pre-sterilized **Body Art** materials and pre-sterilized supplies.

9.7 All **Instruments** used for **Body Art Procedures** must be stored in sterile packages marked with the expiration date and cycle number until opened for use in a **Body Art Procedure**. As an alternative, **Instruments** may be stored in a clean container and **Sterilized** immediately preceding a **Body Art Procedure**.

9.8 If the sterile packaging is compromised or the expiration date is past, equipment must be repackaged and re-sterilized.

9.9 An **Operator** of the **Establishment** must demonstrate that the **Autoclave** used is capable of attaining sterilization by completing a **Spore Test** monthly or at least within 30 days of operating the **Autoclave**. Each test must be verified by an independent laboratory and posted next to the **Autoclave**. Test records should be retained for a minimum of three years.

9.10 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. All **Instruments** that were **Sterilized** in the **Autoclave** since the last passed **Spore Test**, must be repackaged and re-sterilized after the next passing **Spore Test**.

9.11 An **Operator** may be required to submit the results of a monthly **Spore Test** directly to the **Inspector** if the **Establishment** fails to perform a monthly **Spore Test** or has one or more failed **Spore Tests**.

Section 10 - Cleaning and Ultrasonic Use

10.1 All non-disposable **Instruments** used for a **Procedure** must be cleaned thoroughly with an appropriate soap or detergent and rinsed completely with potable water.

10.2 Each **Body Art Establishment** must have at least a one-compartment sink with hot and cold running water for the cleaning of non-disposable **Instruments**. The sink must be of an adequate size to submerge the **Instruments** being cleaned, except as provided under the provisions of Section 10.3 of this rule.

10.3 **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.

10.4 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 9 of this rule, with or without the addition of chemical sanitizers.

10.5 Ultrasonic use, cleaning, dusting, or vacuuming is prohibited during times when **Clients** are being tattooed or pierced.

10.6 An **Autoclave**, ultrasonic, and sterilization room or sterilization area is not required if the **Body Art Establishment** uses only pre-sterilized disposable **Instruments**, pre-sterilized **Body Art** materials, and pre-sterilized supplies.

Section 11 – Skin Preparation, Aseptic Technique and Aftercare

11.1 At all times during the **Procedure**, **Artists** must use sterile **Instruments** as specified under the provisions of Section 9 of this rule, and **Aseptic Techniques**.

11.2 Before and after performing the **Procedure**, **Artists** must 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.

11.3 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.

11.4 Before and after shaving the **Client's** skin, the **Artist** must do the following:

- Wash and scrub the **Artist's** hands as described under the provisions of Section 11.2 of this rule; and put on **Single-use** disposable gloves;
- Wash and rinse the **Client's** area of skin that was shaved;
- **Artist** must discard those gloves after completing those tasks;
- The **Artist** must then wash their hands again and put on a new pair of gloves before continuing the **Procedure**.

11.5 The skin and surrounding area of the **Procedure** must be thoroughly dampened with an **Antiseptic** using a clean **Single-use** cotton ball, gauze or tissue.

11.6 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.

11.7 If the **Artist's** gloved hands become contaminated during the **Procedure**, then the **Artist** must remove gloves and follow applicable hand hygiene procedures put on new gloves before resuming the **Procedure**. As an example, and not by way of limitation:

- 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;

- 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 4.4.3 of this rule; and
- Upon completion of the **Procedure**, each **Artist** must apply an **Antiseptic** 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.

11.8 Any products portioned out for a **Body Art Procedure** must be discarded upon completion.

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

Section 12 – Special Considerations for Tattooing

12.1 Pattern Transfer

12.1.1 If the method of pattern transfer involves a reusable stencil, the stencil must be cleaned and sanitized immediately prior to the application.

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

12.2 Inks, Colors, Dyes, and Pigments

12.2.1 All inks, dyes or pigments must be specifically manufactured for performing **Body Art Procedures**.

12.2.2 Only distilled water or sterile water dispensed from an unopened **Single-use** container may be used for the mixing of inks, dyes, or pigments. Diluting with potable water is not acceptable. Such dilution must be **Single-use** for the individual **Procedure**. Immediately before a **Tattoo** is applied, the quantity of the dye to be used must be transferred from the dye bottle and placed into **Single-use** plastic cups or caps.

12.2.3 All inks, dyes or pigment must be stored in appropriate clean and sterile containers, and labeled with the manufacturer, lot number and expiration date.

12.2.4 Any **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**.

12.2.5 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, §50-31-101, MCA.; the federal Food Drug and Cosmetic Act or other local, state, or federal law.

12.2.6 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, §50-31-101 MCA.

12.2.7 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 13 – Special Considerations for Cosmetic Tattooing

13.1 For the purposes of this rule, **Cosmetic Tattooing** is synonymous with **Permanent Cosmetics** as defined in Section 3.

13.2 After performing microblading or manual procedures, a needle grouping (blade) must be removed from the hand piece in its entirety and disposed of into a **Sharps** container.

Section 14 – Special Considerations for Piercing

14.1 Earlobe Piercing Exemptions

14.1.1 Establishments that perform **Ear Lobe Piercing** only, by using an **Ear Piercing Gun** are exempt from the provisions of Sections 4.5 and 4.6 of this rule as long as the following conditions are met:

- The **Procedure 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**;
- 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
- The **Artist** and **Client** must have convenient access to a **Hand Washing Station**. If the **Hand Washing Station** is not within the **Procedure Area** or within ten feet of the **Procedure Area** door, the **Artist** must wash hands in a designated **Hand Washing Station** and once in the **Procedure Area** must apply (70%) alcohol-based hand sanitizer immediately before putting on gloves and immediately after removal of the gloves in accordance with the U.S. Centers for Disease Control “Guideline for hand hygiene in health-care settings” (MMWR 2002, vol. 51, no. RR-16).

14.1.2 Establishments that perform **Ear Lobe Piercing** only may omit the complications of excessive bleeding, muscle paralysis, nerve paralysis, tooth fracture, heavy metal poisoning, throat closure and tongue swelling on the **Consent Form**.

14.2 Jewelry Standards

14.2.1 **Jewelry** used for **Body Piercing** must meet the following standards:

- 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;
- Individually wrapped and autoclaved, or received from the supplier individually wrapped and sterile;
- If the **Jewelry** is not used within six months of the sterilization date or if the package is no longer intact, the article must be rewrapped and re-sterilized before use; and
- Sterile packages may only be opened in full view of the **Client**.

14.3 Additional Requirements and Restrictions

14.3.1 For the purposes of this chapter, **Body Piercing** does not include the following:

- The practice of electrology as defined in §37-31-101(4) MCA;

- 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**;
- The practice of acupuncture; and
- **Extreme Body Modification** as defined in Section 3.24 of the rule.

14.3.2 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** procedure. This warning may be included on the **Consent Form**.

Section 15 – General Restrictions and Prohibitions

15.1 A **Procedure** may not occur if:

- Either the **Artist** or the **Client** is under the apparent influence of alcohol or other mind-altering drugs or substance;
- The **Client** has not signed the **Consent Form** required under the provisions of Section 8.2 of this rule.
- **Client** is under the age of 18, without the explicit in-person consent of the **Client's** parent or legal guardian as provided in §45-5-623 MCA.
- The **Client** or **Artist** has an active infection that may come into contact with the site of the **Procedure**.

15.2 If the **Client** is under the age of eighteen (18), the parent or legal guardian must accompany the **Client** throughout the **Procedure**.

15.3 A written **Physician** referral is required before a **Procedure** if the **Client**:

- Is taking any drug or dietary supplements that may induce bleeding tendencies or reduce clotting;
- Has a medical condition that is known to cause bleeding tendencies or reduce clotting;
- Shows signs of recent intravenous drug use;
- Has sunburn, a skin disease such as psoriasis or eczema, a skin infection, or lesions such as a mole at the proposed **Procedure Site**;
- Discloses or evidences allergies or contact sensitivity to pigments, soaps, or other substances used in the **Procedure**; or
- Discloses they are pregnant or nursing.

15.4 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.

15.5 **Extreme Body Modification**, as defined in Section 3.24, is considered a medical or surgical procedure and is a prohibited act in **Body Art Establishments**.

15.6 The use of a laser is considered a medical procedure and is prohibited in **Body Art Establishments**.

Section 16 – Professional Standards and Training

16.1 Persons performing **Body Art Procedures** or any other task of function in a **Body Art Establishment** must use **Aseptic Techniques**.

- 16.2 A **Body Artist** must be a minimum of 18 years of age.
- 16.3 A **Body Artist** must maintain hair, skin and clothes that are free of visible particulate matter and debris.
- 16.4 A **Body Artist** must be free of any open wound that cannot be covered, any infection, or communicable diseases that can be transmitted as a result of carrying out the **Body Art Procedure**.
- 16.5 **Artists** must wear a clean outer garment. Hair and beard restraints must be worn if necessary to prevent the **Artist's** hair from contact with the **Client**. All rings, necklaces, and bracelets must be removed or covered by an outer garment or **Single-use** gloves.
- 16.6 Before performing **Body Art** procedures, **Body Artists** must thoroughly wash their hands.
- 16.7 When performing a **Procedure**, the **Body Artist** must wear gloves at all times. Gloves must be immediately discarded and hands washed after the completion of each **Procedure**, when gloves are torn, punctured or otherwise compromised, or at any other time when necessary to prevent cross contamination.
- 16.8 Eating or drinking by anyone is prohibited in the **Procedure Area, Clean Room** and any location where **Instruments** or supplies are stored or cleaned.
- 16.9 All **Artists**, including **Guest Artists** must complete the following training and adhere to the certifying organization's guidelines for expiration and renewal:
- OSHA compliant Bloodborne Pathogen training;
 - OSHA compliant first aid training;
 - Montana DPHHS Sanitation Quiz.
- 16.10 Current training certificates must be maintained in the **Establishments** and made available to an **Inspector** upon request.

Section 17 – License Requirements

17.1 General Requirements

- 17.1.1 It is 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 rule shall be entitled to receive or retain such a license.
- 17.1.2 A valid license shall be posted in each **Body Art Establishment** and by each **Artist**.
- 17.1.3 All **Applicants** must be at least eighteen (18) years of age.
- 17.1.4 All licenses expire on December 31 following the date of issue.
- 17.1.5 License fees shall be set by the **Board**.
- 17.1.6 A late fee will be charged for failure to submit a license renewal fee prior to the expiration date. The late fee shall be set by the **Board**.
- 17.1.7 Licenses are not transferrable from one location to another or from one **Artist** to another.

17.1.8 It is unlawful to provide false or deliberate alteration of information for the purpose of obtaining a license.

17.2 – Application Process

17.2.1 Prior to licensure of an **Establishment**, an **Applicant** must submit a plan review application to the **Board** for review and approval. The plan review application must demonstrate how the **Applicant** will meet the requirements of this rule and include the following:

- A layout of the facility showing the **Procedure Areas, Clean Rooms**, waiting areas, toilet rooms, **Hand Washing Stations**, etc.;
- Specifications for any **Autoclave** that may be used, including manufacturer and model number;
- Client **Consent Forms**, client record forms and written **Aftercare Instructions**;
- Exposure Control Plan; and
- Copies of current training certificates.

17.2.2 Prior to licensure, each **Artist** must submit an Artist Plan Review to the **Board** for review and approval. If an **Artist** moves from one licensed **Establishment** to another licensed **Establishment**, the **Artist** must submit a new Artist Plan Review application.

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

17.2.4 When adding a new **Artist** to a licensed **Establishment**:

- The **Artist** will be required to submit an artist plan review prior to becoming licensed to perform Body Art at that location; and
- The **Establishment** may be required to submit a new plan review to ensure it meets all requirements of this rule.

17.2.5 Any changes made to the **Consent Form** or **Aftercare Instructions** must be approved by the **Board** before implementation.

17.2.6 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**.

17.2.7 Prior to approval of an application for a license, the Health Officer or his/her representative shall inspect the proposed **Body Art Establishment** to determine compliance with the requirements of this regulation.

17.2.8 The **Board** shall issue a license to the **Applicant** if the **Applicant** demonstrates compliance with all applicable requirements of this rule.

17.2.9 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.

17.2.10 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 state and local building code permits and inspections, fire and safety inspections; and other business licenses required by local or state agencies.

17.3 License Denial and Cancellation

17.3.1 The **Board** may deny or cancel a license if it is determined that the **Applicant** or licensee has provided false or deliberate alteration of information for the purpose of obtaining a license or has violated this rule and has failed or refused to remedy or correct the **Violation(s)**.

17.3.2 A written notice of license denial or cancellation must be sent by certified mail or served by hand delivery to the **Applicant** or licensee and must state the grounds for denial or cancellation and a notification of the right to a hearing before the **Board**.

17.3.3 An **Applicant** and/or licensee may appeal the denial or cancellation by written submission to the **Board** within ten (10) business days of receipt of notice. Failure to file a timely notice of appeal shall result in a forfeiture of this right.

17.3.4 When the aggrieved public party has filed a timely notice of appeal, the **Board** shall notify the **Applicant** or licensee to appeal at its next regularly scheduled meeting. The aggrieved party may appear in person, with an advocate, or submit a written statement. The **Board** shall respond to the appeal in writing within fifteen (15) days after the hearing, stating the decision and reasons for the decision. The **Board** decision is final.

17.3.5 Upon denial or cancellation of a license, the **Applicant** or licensee must wait a minimum of ninety (90) days before applying for a new license or operating a **Body Art Establishment** or as a **Body Artist** in Yellowstone County.

Section 18 – Inspections

18.1 An **Inspector** with 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 this rule and must be permitted to examine the records of the **Body Art Establishment** or **Artist** pertaining to compliance with this rule.

18.2 An **Inspector** shall conduct an inspection of each **Body Art Establishment** and **Artist** at least once every calendar year. Additional inspections may be conducted as often as necessary for the enforcement of this rule.

18.3 When an inspection of a **Body Art Establishment** or **Artist** is conducted, the findings will be documented on an inspection report form. A copy of the completed inspection report form will be given to the licensee within ten (10) days of the inspection.

18.4 The inspection report must specify a reasonable period of time for the correction of any **Violation(s)**. Correction of the **Violation(s)** must be accomplished within the period specified.

18.5 A compliance fee will be charged for each follow up inspection necessary when a **Violation** is not corrected within the specified time period.

18.6 Compliance fees shall be determined and set by the **Board**.

18.7 Inspection reports are public documents and available for public review.

18.8 Inspection reports will be used to establish a pattern of non-compliance with this rule.

Section 19 – Variance

19.1 A licensee may request a variance to waive or modify compliance with the requirements of this rule by petitioning the **Board**. An application for a variance must contain:

- A statement of the proposed variance from the rule’s requirements, citing the relevant section numbers; and
- A rationale explaining how the potential public health hazards addressed by the relevant rules will be alternately addressed by the proposal.

19.2 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.

19.3 The failure to continuously demonstrate compliance with a variance or modification may result in license cancellation or non-renewal.

19.4 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 20 – Violations, Penalties, and Enforcement

20.1 Failure to correct any **Violation(s)** within the specified timeframe may result in cancellation of license and cessation of operations of the **Body Art Establishment** or **Artist** license. Pursuant to §50-48-109, MCA, the **Board** may bring an action for an injunction against any continued violation of this rule.

20.2 Any license granted under this rule which is based upon any misrepresentation, incomplete or false information shall be void.

20.3 Any person who violates any provision of this rule adopted by the **Board** shall be subject to applicable civil and criminal penalties as described in §50-48, MCA.

Section 21 – Conflict of Ordinances

21.1 In any instance where a provision of this rule 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 rule, the provision which is determined by the **Health Officer**, establishes the higher standard for the protection of the health, safety and welfare shall prevail.

21.2 In any instance where a provision of this rule 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 rule, the provisions of this rule shall be deemed to prevail, and such other provisions of any ordinances or codes are hereby declared superseded to the extent that they may be found in conflict with the rule.

21.3 If any Section, paragraph, sentence, clause or phrase of this rule should be declared invalid for any reason, such invalidity shall not affect the remaining portions of the rule. The provisions of this rule are hereby declared to be severable.

Passed and adopted by the RiverStone Board of Health

This 22 day of October, 2020.

A handwritten signature in black ink, appearing to read "John R. Davis", written over a horizontal line.

Chairman, Board of Health

