

Body Modification Rule

1. General

1.1) Scope- This rule establishes requirements regarding the business of tattooing and body piercing. This rule is based on W.Va. Code 16-37-1 et seq., W.Va. Code 16-38-1 et seq., Legislative Rule 64CSR80

1.2) Authority- W.Va. Code 16-37-4, 16-1-4

1.3) Effective Date- July 1, 2014

1.4) Applicability- This rule applies to any person who engages in the business of tattooing or body piercing, or who proposes to do so except:

1.4.a) Health care providers licensed under Chapter Thirty (30) of the W.Va. Code; and

1.4.b) Persons who use a mechanized, pre-sterilized ear piercing system that penetrates the outer perimeter or lobe of the ear.

1.5) Enforcement- This rule is enforced by The Mid-Ohio Valley Health Department

2. Definitions

2.1) Adequate Ventilation- the free and unrestricted circulation of fresh air throughout the establishment and the expulsion of foul or stagnant air.

2.2) Antibacterial Solution- any solution which inhibits and reduces the growth of bacteria, is approved for application to human skin and includes all products so labeled.

2.3) Approved- A procedure of operation, installation, or construction which is in accordance with the standards, specifications, and instructions established by the Division of Health.

2.4) Bloodborne Pathogens- pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

2.5) Blood Exposure Incident- Piercing the skin through such events as needle sticks, cuts, and abrasions using material contaminated with blood from a client; or eye, mouth, other mucous membrane, or non-intact skin contact with blood or blood-contaminated material from a client.

2.6) Body Piercing- the piercing of any part of the body by someone utilizing a needle or other piercing device for the purpose of inserting an object into the body for non-medical, cosmetic, purposes; body piercing includes ear piercing except when the ear piercing is performed on the ear with an ear piercing gun.

2.7) Body Piercing Establishment- Means any place, whether temporary or permanent, stationary or mobile, where ever situated, where body piercing is performed, including any area under the control of the operator.

2.8) Contaminated- the presence, or reasonably anticipated presence, of blood, body fluids, or other potentially infectious materials in or on the surface of an item.

2.9) Contaminated Waste- any material used in tattoo, body piercing, or tattoo and body piercing establishments that requires disposal in accordance with the Division of Health rule, Infectious Medical Waste, 64CSR56

2.10) Disinfection- a process that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores.

2.11) Ear Piercing Gun- a handheld tool used exclusively for piercing the ear, into which single use pre-sterilized studs and clutches are placed and inserted into the ear by hand squeezed or spring loaded action to create a permanent hole. The tool shall be plastic, stainless steel, or other material that allows disinfection.

2.12) Exposure Control Plan- a written plan of procedures for those who perform body modifications in an establishment on how to implement the requirements of this rule, and that eliminates or minimizes employee and client exposure to bloodborne pathogens and other communicable diseases.

2.13) Germicidal Solution- any solution that destroys germs and is so labeled.

2.14) Instrument- equipment that includes, but is not limited to needles, needle bars, needle tubes, forceps, hemostats, tweezers, pliers, or other implements used in the body modification process. This equipment also includes studs, hoops, rings, and other decorative jewelry, materials or apparatuses inserted into any part of the body for the intended purpose of placement into a permanent hole resulting from piercing.

2.15) Minor- any person under the age of eighteen (18) years.

2.16) Operator- any person, firm, company, corporation, or association that owns, controls, operates, conducts, or manages a tattoo or body piercing establishment.

2.17) Permanent Hole- a hole produced by piercing or puncturing any part of the body with instruments intended to leave an opening in body tissue into which an appropriate device may be inserted. A permanent hole would include any body part newly pierced which is undergoing a healing process and any piercing whether removal of a device from the perforation would result in healing of the tissue or not.

2.18) Permit- a written document issued by the Mid-Ohio Valley Health Department giving an operator permission to operate a tattoo or body piercing establishment.

2.19) Piercing Device- a device used for the creation of an opening in the human body for the purpose of inserting jewelry or other decoration.

2.20) Premises- the physical location of a tattoo or body piercing establishment.

2.21) Procedure Area- the immediate area where instruments and supplies are placed during a procedure.

2.22) Purchased Pre-Sterilized- instruments that are sold individually packaged and sterilized. Each package shall have an auditable sterilization lot number from a sterilization facility.

2.23) Sanitization- the effective bactericidal and virucidal treatment of clean equipment surfaces by a process that has been approved by the Mid-Ohio Valley Health Department as being effective in destroying pathogens and different than sterilization.

2.24) Single Use- products, instruments, or items that are used one (1) time on one (1) client and then properly disposed of in accordance with the Division of Health rule, Infectious Medical Waste, 64CSR56.

2.25) Sterilization- the process by which all forms of microbial life, including bacteria, viruses, spores, and fungi, are destroyed.

2.26) Tattoo- any method utilizing needles or other instruments to permanently place designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin

of a person with ink or any other substance resulting the an alteration of the appearance of the skin.

2.27) Tattoo Establishment- any location where tattooing is performed, including any area under the control of the operator.

2.28) Workstation- an area, such as a separate room or a screened area, that is set up to ensure client privacy when performing a tattoo or body piercing procedure.

3. Plan Review, Permits, Hearings, Notices and Orders, and Certificate of Registration

3.1) Plan Review.

3.1.a) When a Tattoo or Body Piercing Studio Business opens or is extensively remodeled, and when an existing structure is converted to use as a Tattoo or Body Piercing Studio Business, the owner or operator shall submit plans and specifications for the construction, remodeling, or conversion of the business to the Mid-Ohio Valley Health Department for review and approval at least forty-five (45) days before beginning the construction, remodeling or conversion..

3.1.b) Once the completed plans are received by the Mid-Ohio Valley Health Department, the Mid-Ohio Valley Health Department shall review them within forty-five (45) days.

3.2) Permit to operate.

3.2.a) On or after July 1, 2014 no person shall operate a Tattoo Without a valid permit issued by the Mid-Ohio Valley Health Department or operate a Body Piercing Studio Establishment without a valid permit issued by the Mid-Ohio Valley Health Department.

3.2.b) To apply for a permit to operate a Tattoo or Body Piercing Studio Business, an operator shall submit a completed, written application along with a non-refundable fee of two hundred dollars (\$200.00) to the Mid-Ohio Valley Health Department on a form obtained from the Mid-Ohio Valley Health Department.

3.2.c) The applicant shall submit to the Mid-Ohio Valley Health Department an application for a permit at least fifteen (15) days before the beginning of operations.

3.2.d) Prior to approving the application for a permit, the Mid-Ohio Valley Health Department shall inspect the proposed facility to determine compliance with this rule. The Mid-Ohio Valley Health Department shall issue a permit only to persons who comply with the applicable provisions of this rule.

3.2.e) A Tattoo or Body Piercing Studio Business in operation at the time this rule becomes effective shall meet all applicable requirements of this rule.

3.2.f) Permits are not transferable or assignable and automatically become invalid upon a change of ownership or location of the facility, or upon suspension or revocation of the permit.

3.2.g) Permit Expiration:

3.2.g.1) Tattoo Studio Business- one (1) year from date of issue.

3.2.g.2) Body Piercing Studio Business- at midnight on the thirtieth (30th) day of June following the date of issue.

3.2.h) The permittee shall submit to the Mid-Ohio Valley Health Department an application for the renewal of a permit at least fifteen (15) days prior to the expiration date of the existing permit.

3.2.i) In the event of a change in ownership of a facility, the new operator shall submit an application for a permit to operate to the Mid-Ohio Valley Health Department at least fifteen (15) days before the change is effective.

3.2.j) The Mid-Ohio Valley Health Department may suspend or revoke a permit if they find that the facility is being maintained or operated in violation of this rule.

3.2.k) The Mid-Ohio Valley Health Department may revoke a permit to operate for repeated or serious violations of any of the requirements of this rule or for interference with the Mid-Ohio Valley Health Department representative in the performance of his or her duties.

3.2.l) The Mid-Ohio Valley Health Department shall not reinstate a permit to operate until their representative determines by an inspection that the facility is in compliance with all applicable provisions of this rule and any orders, rules or instructions issued by the Mid-Ohio Valley Health Department.

3.2.m) The operator shall post the permit required under Subdivision 3.2.a. of this rule in a conspicuous location visible to the public.

3.3. Hearings, Notices and Orders.

3.3.a) When the Mid-Ohio Valley Health Department makes an inspection of a facility and discovers any of the provisions of this rule have been violated, they shall notify the operator of the violations by means of an inspection report form or other written notice. The operator shall correct the violations within the time specified in the notice.

3.3.b) When the Mid-Ohio Valley Health Department finds that any facility governed by this rule constitutes an imminent hazard to public health, they may, without notice or hearing, issue a written order to the operator or person in charge citing the existence of the condition and action to be taken to remedy the condition, including the immediate suspension of the permit to operate.

3.3.b.1) Any person to whom the order is directed shall comply with the order immediately, but upon written petition to the Mid-Ohio Valley Health Department shall be afforded a hearing on the matter as set forth in subdivision 3.3.c. of this rule.

3.3.c) A person whose application for a permit to operate a facility governed by this rule has been denied, or whose permit has been suspended or revoked, may submit a written petition to the Mid-Ohio Valley Health Department requesting a hearing on the matter in a manner prescribed in Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1. The Mid-Ohio Valley Health Department shall grant a hearing on the matter within ten (10) days after receiving the written petition.

3.3.d) The filing of a petition for a hearing on a permit denial, suspension, or revocation shall not stay or suspend the execution of the notice or order resulting in the permit denial, suspension, or revocation.

3.4. Body Piercing Certificate of Registration.

3.4.a) All persons who perform or intend to perform body piercing shall hold a valid Body Piercing Certificate of Registration before performing any body piercing.

3.4.b) A Certificate of Registration is valid for one (1) year. The Certificate of Registration shall be prominently displayed and visible to the public at the technician's workstation and in every shop where the technician practices, and is not transferrable.

3.4.c) Certificate of Registration Requirements and Procedures.

3.4.c.1) The applicant for a Certificate of Registration shall be at least eighteen (18) years of age when he or she applies, and shall:

3.4.c.1.a) Submit a written request for a Certificate of Registration to the Bureau for Public Health, Office of Environmental Health Services, Charleston, WV 25301, and pay the Bureau the required fee of one hundred dollars (\$100.00);

3.4.c.1.b) Obtain a copy of this rule and sign a written statement agreeing to comply with its provisions;

3.4.c.1.c) Provide the names and business addresses of all facilities at which the applicant shall perform any activity under this rule;

3.4.c.1.d.) Provide written documentation that he or she has received exposure control training under the requirements in 64CSR29 '9; and

3.4.c.1.e) Provide written documentation of the applicant's Hepatitis B Vaccination status in one of the following forms:

3.4.c.1.e.1) A certificate of a completed vaccination;

3.4.c.1.e.2) Laboratory evidence of immunity; or

3.4.c.1.e.3) A copy of a certificate of vaccination declination for Hepatitis B Vaccination that shall be kept on file in the Body Piercing Studio Business and made available during inspections.

3.4.d) Certificate of Registration Suspension. If the Mid-Ohio Valley Health Department finds any unsafe practices or unsanitary conditions in the Body Piercing Studio Business licensed under this rule that constitute an imminent danger to the public health, the Mid-Ohio Valley Health Department may:

3.4.d.1) petition to have the Bureau for Public Health suspend the technician's Certificate of Registration and immediately suspend all body piercing procedures done in that body piercing studio;

3.4.d.2) Serve an order upon the technician, owner or manager citing the unsafe practices and conditions found, and specifying the corrective action to be taken within fifteen (15) days; or

3.4.d.3) Suspend the Certificate of Registration if the violations are not corrected within fifteen (15) days. The person to whom the order is issued may send a written request to the Mid-Ohio Valley Health Department for a review of the violation report, and the review shall be held within fifteen (15) days.

4. Inspections

4.1) The Mid-Ohio Valley Health Department is charged with the enforcement of all provisions of this rule. The Mid-Ohio Valley Health Department may enter, inspect, impound, copy records, and secure any samples, photographs, or other evidence from any Tattoo or Body Piercing Studio Business, or any facility suspected of being a Tattoo or Body Piercing Studio Business, for the purpose of enforcing this rule.

4.2) The Mid-Ohio Valley Health Department shall inspect a facility governed by this rule at least once every six months.

4.3) The Mid-Ohio Valley Health Department shall also make additional inspections as necessary to determine satisfactory compliance with the provisions of this rule or any orders, notices, instructions or specifications issued pursuant to this rule.

4.4) The Mid-Ohio Valley Health Department shall discuss the inspection report with the person in charge of the facility at the time of inspection.

4.5) Facility Operator Responsibilities.

4.5.a) The facility operator of any tattoo or body piercing facility shall:

4.5.a.1) Allow the Mid-Ohio Valley Health Department to enter any Tattoo or Body Piercing Studio Business within its jurisdiction during business hours to inspect the facility, and make as many additional inspections as are necessary for the enforcement of this rule;

4.5.a.2) Be responsible for all facility technicians complying with all health, safety, sanitation and sterilization rules and standards of the Mid-Ohio Valley Health Department;

4.5.a.3) Maintain a list of technicians providing services at the facility for review by the Mid-Ohio Valley Health Department during inspections; and

4.5.a.4) Develop and ensure compliance with the Exposure Control Plan as specified in Section 13 of this rule. A copy of the plan shall be available at all times for use and inspection.

5. Facility Requirements.

5.1) All floors, walls and ceilings shall be a light color and made of smooth nonabsorbent and nonporous materials that are easily cleanable. Concrete blocks or other masonry used in wall construction shall be covered or made smooth and sealed for a washable surface.

5.2) Adequate toilet facilities shall be provided in accordance with the specifications of the BOCA National Plumbing Code as specified by the West Virginia State Fire Commission. A hand sink shall be located inside the restroom facility and shall be supplied with soap and single use paper towels or any other approved hand-drying device.

5.3) The premises shall be constructed and maintained in a state of good repair at all times to prevent insect and rodent infestation. Floors shall be swept and wet-mopped daily. Workrooms are not to be cleaned while tattooing or body piercing procedures are being performed.

5.4) Tattoo or Body piercing activities shall be separated from any other activities, including waiting rooms or any room or rooms used from any other purpose, by a solid wall.

5.5) The establishment shall have adequate ventilated and be provided with an artificial light source equivalent to at least twenty (20) foot-candles.

5.6) At least fifty (50) foot-candles of artificial light shall be provided at the level where the tattoo or body piercing procedure is being performed.

5.7) All surfaces, including but not limited to, counters, tables, equipment, chairs, recliners, shelving, cabinets in the service areas and cleaning room shall be made of light colored, smooth, non-absorbent, non-porous materials to allow for easy cleaning.

5.8) Hand sinks with hot and cold running water operated by foot, knee, wrist action controls shall be located in each work area and equipped with soap, germicidal solution, single-use towels or other approved hand drying method, and for tattoo artists, single-use hand/nail cleaning tool, i.e. orange sticks.

5.9) The cleaning room or area shall have a separate sink reserved for instrument clean up activities only.

5.10) The water supply shall be from an approved source.

5.11) Sewage including liquid wastes shall be disposed of in a public sewer or, in the absence of a public sewer, in a manner approved by the Mid-Ohio Valley Health Department

6. Temporary and Mobile Body Piercing Facilities.

6.1) Temporary Body Piercing facilities include those for educational or convention purposes. To the extent possible, they shall meet the facility requirements in Section 10 of this rule. At a minimum, they shall include:

6.1.a) Temporary handwash facilities and hand sanitizer located within each work or demonstration area. A temporary handwash facility shall consist of liquid hand cleanser, single-use paper towels and warm potable water dispensed from an insulated container with a spigot that is raised a minimum of twenty-five (25) inches off the floor. Wastewater shall be collected in a bucket placed on the floor under the spigot. Warm potable water shall be replenished and wastewater removed as necessary;

6.1.b) At least fifty (50) foot-candles of light at the level where the procedure is being performed;

6.1.c) A separate cleaning and sterilization area for use by the operator that supplies an adequate number of sinks and approved sterilization units for cleaning and sterilizing equipment to be used during the event; and

6.1.d) Sterilization units approved for use are cleaned and maintained according to manufacturer's instructions. All sterilization units used at the event shall have certification of a negative spore test on the sterilizer within the last thirty (30) days.

6.2.) Mobile Body Piercing units or vehicles shall comply with the following requirements:

6.2.a) The mobile vehicle shall be equipped with a sink for the exclusive use of the technicians for hand washing and preparing customers. An adequate supply of warm potable water shall be maintained at all times that the mobile shop is open for business;

6.2.b) All liquid wastes shall be stored in an adequate storage tank with a capacity at least fifty percent (50%) greater than the capacity of the on-board potable water. Liquid wastes shall be disposed of at any approved trailer wastewater disposal site;

6.2.c) If there is not an on-board rest room, the mobile vehicle shall be operated within two hundred (200) feet of a public restroom; and

6.2.d) All procedures shall be performed inside the mobile vehicle.

7. Housekeeping Standards.

7.1) All Tattoo and Body Piercing Studio Businesses shall meet the following criteria:

7.1.a) All areas shall be kept neat, clean and in good repair;

7.1.b) All surfaces and equipment (chairs, work stations, counters, client recliners or dispensers) in the procedure area shall be made of smooth, light colored, nonabsorbent, non-porous material that can withstand repeated disinfection;

7.1.c) An Environmental Protection Agency (EPA) registered disinfectant or germicide (iodophor, phenolic, or alcohol containing germicide, or a 1:100 dilution of

5.25% household bleach and water which equals two (2) tablespoons of bleach in one (1) quart of water that is mixed and replaced daily) shall be used after cleaning to disinfect any surface contaminated with blood or body fluids;

7.1.d) All facilities shall have the waiting area separated from the workstations and the cleaning room or area. A public restroom shall be available to clients during all business hours;

7.1.e) The cleaning room or area shall be set up in a manner to provide distinct, separate areas for cleaning equipment, and for the handling and storage of sterilized equipment. The cleaning area sink shall be reserved for instrument cleaning only and shall not be used as a janitorial sink;

7.1.f) Large capacity ultrasonic cleaning units shall be clearly labeled biohazardous and placed away from the sterilizer and workstations. All ultrasonic cleaners shall be cleaned and maintained according to manufacturer's specifications;

7.1.g) Adequate foot-operated receptacles shall be provided in each workstation for disposal of trash and debris;

7.1.h) Each work station shall have a Mid-Ohio Valley Health Department approved sharps container that is rigid, puncture proof, leak proof and red in color for disposal of sharp objects that come into contact with blood or body fluids;

7.1.i) The procedure area and client chair or table shall be wiped down with an EPA registered disinfectant or germicide using a single-use paper towel before and after serving each client;

7.1.j) All germicides and disinfectants must be used according to manufacturer's recommendations;

7.1.k) All chemicals shall be properly labeled and stored; and

7.1.l) Pets or other animals are not to be permitted in the facility. Trained guide or assistance animals for the disabled and fish in aquariums in the waiting area are permitted in the facility.

8. Exposure Control Plan.

8.1) The operator of every Tattoo or Body Piercing Studio Business shall establish a written Exposure Control Plan which applies to all technicians within a facility, and describes how the applicable requirements of this rule shall be implemented. This plan shall be made available to the Mid-Ohio Valley Health Department during any inspection. The Exposure Control Plan shall contain at least the method of implementation for each of the following applicable sections of this rule:

8.1.a) Section 13. Clients;

8.1.b) Section 5. Facility Requirements;

8.1.c) Section 7. Housekeeping Standards;

8.1.d) Section 10. Approved Sterilization Equipment and Monitoring Methods;

8.1.e) Section 11. Instrument Sterilization and Set-Up;

8.1.f) Section 12. Contaminated Wastes;

8.1.g) Section 14. Body Piercing Procedures; and

8.1.h) Section 15. Tattoo Procedures

9. Exposure Control Training Requirements

9.1) All technicians shall receive exposure control training.

9.2) All technicians shall complete the exposure control training within six (6) months of the effective date of this rule and shall update the training annually every year thereafter. The technicians shall complete additional training when changes such as modification of procedures or institution of new procedures affect the technician's or client's exposure. The additional training may be limited to addressing the new exposures created.

9.3) The trainees shall use material appropriate in content and vocabulary to their educational and language level.

9.4) The training program shall contain, at a minimum, the following elements:

9.4.a) An accessible copy of the this and any other applicable rules and an explanation of their contents;

9.4.b) A general explanation of the epidemiology and symptoms of bloodborne diseases and any other exposures appropriate for the practice of the technician;

9.4.c) An explanation of the modes of transmission of bloodborne pathogens and other communicable diseases appropriate for the technician;

9.4.d) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood for either the technician, the client, or both;

9.4.e) An explanation of the use and limitations of methods that will prevent or reduce exposure to both the technician and the client;

9.4.f) Information on the types, proper use, and removal, of gloves and proper hand washing techniques;

9.4.g) Information on hepatitis B vaccine, including information on its efficacy, safety, method of administration, and the benefits of being vaccinated;

9.4.h) An explanation of what constitutes a blood exposure incident, the risk of disease transmission following a blood exposure incident, and the options for post-exposure evaluation and follow-up if an exposure incident occurs, specific to each bloodborne pathogen; and

9.4.i) An opportunity for interactive questions and answers with the person conducting the training session.

9.5) The person conducting the training shall be knowledgeable in the subject matter covered by the training program as it relates to the workplace that the training will address.

9.6) The following courses are considered adequate training for obtaining a Body Piercer Certificate of Registration:

9.6.a) The OSHA course on Bloodborne Pathogen Training; and

9.6.b) Equivalent training provided by professional body art organizations or equipment

10. Approved Sterilization Equipment and Monitoring Methods.

10.1) The operator shall ensure that the instruments used in tattooing and body piercing are properly cleaned and packaged in sterilizer bags with a color change indicator and then sterilized in a sterilizer that:

10.1.a) Is sold as sterilizing equipment for medical instruments and is registered as such with the FDA;

10.1.b) Has been approved by the Mid-Ohio Valley Health Department;

10.1.c) Is used, cleaned and maintained to manufacturer's specifications; and
10.1.d) Is tested weekly by using a commercial biological monitoring system, utilizing *Bacillus stearothermophilus* spores, to assure that all microorganisms, including spores, have been destroyed. The operator shall maintain biological indicator test results for a period of three (3) years and make them available for inspection at all times.

10.2) An integrator shall be included with each load sterilized to establish that all physical requirements for terminal sterilization were met and results shall be maintained with all other sterilization records for a period of three (3) years.

11. Instrument Sterilization and Set-Up.

11.1) Contaminated non-disposable equipment including needles needle tubes, body piercing tubes or other instruments that are contaminated shall be immersed in germicidal or soap solution liquid in the cleaning area or room until cleaned and sterilized.

11.2) Before being sterilized, all instruments shall be thoroughly cleaned in an ultrasonic cleaner following the manufacturer's instructions. Ultrasonic unit shall be sanitized daily with a germicidal solution.

11.3) After cleaning, non-disposable instruments shall be packaged into procedure set-ups with color change indicators or packaged individually in peel-packs with color change indicators. All packages shall be dated and initialed by the preparer. If a sterilized package has been breached or allowed to get wet, the instruments shall be re-packaged and re-sterilized before use.

11.4) After sterilization, the instruments shall be stored in a dry, clean cabinet or other tightly covered container reserved for storage of sterile instruments.

11.5) The facility shall retain the records of sterilization procedures for a minimum of three (3) years.

11.6) Wearing new clean disposable examination gloves, the technician shall use the proper technique to assemble, without contamination, all instruments and supplies to be used in the procedure. All sterilized instruments shall remain in sterile packages until opened in front of the client. If a glove is pierced, torn or contaminated by contact with any non-clean surface, the technician shall properly remove and discard both gloves. The technician shall discard the gloves after the completion of each procedure on an individual client, and shall wash his or her hands prior to donning the next pair of gloves. Under no circumstances shall a single pair of gloves be used on more than one (1) person. The use of disposable examination gloves does not preclude or substitute for hand washing procedures as a part of a good personal hygiene program.

11.7) If a tattoo or body piercing business operator wishes to use needles or other instruments that they themselves have not sterilized, but have purchased pre-sterilized the following documentation is required;

11.7.a) Documentation showing that the needles or similar instruments were packaged at a facility approved for sterile manufacturing by the FDA; or

11.7.b) A spore test or other biological monitoring test for each lot of pre-sterilized needles or similar instruments purchased.

12. Contaminated Wastes.

12.1. Contaminated wastes generated by a Tattoo or Body Piercing Studio Business shall be managed in accordance with the Division of Health rule, Infectious Medical Waste, @ 64CSR56.

13. Clients.

13.1) A person under the age of eighteen (18) years may receive a tattoo or body piercing provided he or she is accompanied by his or her parent or guardian. The parent or guardian shall have valid picture identification. Facility shall keep copy of identification as part of the record. Nipple and genital piercing is prohibited on minors regardless of parental consent. Persons eighteen (18) years or older may receive a tattoo or body piercing without parental consent, Persons must have valid picture identification and facility shall keep a copy of identification as part of record.

13.2) A technician shall not perform a tattoo or body piercing on skin surfaces which have sunburn, rash, pimples, infection, open lesions, or manifest any evidence of unhealthful conditions.

13.3) A technician shall not perform a tattoo or body piercing on any person who is impaired by drugs or alcohol at the time of the intended procedure.

14. Body Piercing Procedures.

14.1) Before beginning any body piercing procedure, the technician shall discuss the risks and responsibilities required in the particular piercing with the client, The client shall fill out and sign a client information form and the consent form for body piercing. One copy of each form shall be retained by the facility and the other copy shall be given to the client. The technician shall also explain aftercare instructions and have the client initial the consent form to indicate that he or she has received written aftercare instructions.

14.2) There shall be no smoking, eating or drinking at the work station or cleaning room during or between procedures.

14.3) The technician shall thoroughly wash his or her hands and forearms with soap and warm water before and after serving each client, to prevent cross contamination and/or transmission of body fluids, infection or exposure to service related chemicals or wastes. Following a thorough washing, the technician shall dry his or her hands using clean, single use paper towels.

14.4) The technician shall wear new clean disposable examination gloves for every client during the procedure. If a glove is pierced, torn or contaminated by coming into contact with any other person or non-clean surface, the technician shall properly remove and discard both gloves.

14.5) The technician shall use freshly laundered linens or new disposable dental bibs or drapes for each client. All drapes, dental bibs, and linens shall be stored in a closed cabinet or container. The technician shall place used disposable items into a closed container that is lined with a plastic bag for disposal at the end of the day, and place used linens into a laundry hamper lined with a plastic bag.

14.6) All body piercing needles shall be single use, sterilized disposable piercing needles slightly larger or of the same gauge as the jewelry or ornaments to be inserted, and disposed of immediately after use in a properly labeled sharps container.

14.7) All instruments, as defined in Section 2 of this rule, shall be properly cleaned and sterilized in individual bags with color indicator strips. The person preparing the instruments shall date and initial each bag.

14.8) All non-sterilizable implements such as calipers shall be nonporous and the technician shall disinfect them after each use with an appropriate disinfectant.

14.9) A technician shall use only sterilized jewelry or ornaments in new or good condition for piercing. He or she shall not use ear studs or other jewelry designed for ears or specific parts of the body in other parts of the body.

14.10) The technician shall only use jewelry made of implant grade, ASTM-F-136 and ISO 5832-1 implant grade stainless steel, solid 14K through 24K gold, niobium, ASTM-F-138 titanium, platinum or other materials approved for use in body piercing.

14.11) Immediately, before the procedure is begun, the technician shall wipe down the procedure area with an EPA registered germicide or disinfectant, or a solution of two (2) tablespoons of five and one quarter percent (5.25%) available chlorine bleach in one (1) quart of water that is mixed and replaced daily and the procedure area covered with an uncontaminated paper towel or tray cover, and then arrange on the paper all instruments and supplies needed for the procedure.

14.12) Before piercing, the technician shall wash the immediate and surrounding area of the skin which is to be pierced with an EPA-approved antiseptic solution applied with a clean, single-use paper product. If shaving is necessary, the technician shall use one (1) time each disposable razors, or safety razors with single-service blades and discard them after each use; he or she shall sterilize the reusable holder in an autoclave after each use. Following the shaving, the technician shall wash the skin and surrounding area with an EPA-approved antiseptic solution applied with a clean single-use paper product.

14.13) Upon completion of the piercing, the technician shall review verbally with the client the printed instructions on the care of the body opening created by the piercing. Aftercare instructions shall specify:

14.13.a) Care specific to the site of the piercing;

14.13.b) Information regarding tightness to prevent accidental ingestion or imbedding of certain jewelry if appropriate;

14.13.c) Restrictions;

14.13.d) Signs and symptoms of infection; and

14.13.e) Instructions to consult a physician if infection occurs.

15. Tattooing Procedures

15.1) Printed instructions on the care of the skin after tattooing shall be given to each patron as a precaution to prevent infection;

15.2) A copy of the printed instructions shall be posted in a conspicuous place, clearly visible to the person being tattooed;

15.3) Each tattoo artist shall wear a clean outer garment, i.e., apron, smock, T-shirt, etc.;

15.4) Tattoo artists who are experiencing diarrhea, vomiting, fever, rash, productive cough, jaundice, draining or open skin infections such as boils which could be indicative of more serious conditions such as, but not limited to, impetigo, scabies, hepatitis-b, MRSA, HIV or AIDS shall refrain from tattooing activities until such time as they are no longer experiencing or exhibiting the aforementioned symptoms;

15.5) Before working on each patron, the fingernails and hands of the tattoo artist shall be thoroughly washed and scrubbed with hot running water, antibacterial soap and an individual hand brush that is clean and in good repair;

15.6) The tattoo artist's hands shall be air blown dried or dried by a single-use towel. In addition, disposable latex examination gloves shall be worn during the tattoo process. The gloves shall be changed each time there is an interruption in the tattoo application, the gloves become torn or punctured or whenever their ability to function as a barrier is compromised;

15.7) Only sterilized or single-use, disposable razors shall be used to shave the area to be tattooed;

15.8) Immediately prior to beginning the tattoo procedure, the affected skin area shall be treated with an antibacterial solution;

15.9) If an acetate stencil is used by a tattoo artist for transferring the design to the skin, the acetate stencil shall be thoroughly cleaned and rinsed in a germicidal solution for at least twenty minutes and then dried with sterile gauze or dried in the air on a sanitized surface after each use;

15.10) If a paper stencil is used by a tattoo artist for transferring the design to the skin, the paper stencil shall be single-use and disposable;

15.11) If the design is drawn directly onto the skin, the design shall be applied with a single-use article only.

15.12) Individuals performing tattoo services shall use only dyes or inks manufactured by an established manufacturer and used as recommended by the manufacturer. Powdered dyes shall be liquefied as recommended by the manufacturer. Unless approved by the manufacturer, dye colors shall not be adulterated by the individual performing the service. Single service or individual containers of dye or ink shall be used for each patron and the individual performing the service shall discard the container and remaining dye or ink. If non-disposable containers are used, the operator shall sterilize them before reuse. The individual performing the procedure shall remove excess dye or ink from the skin with single-use gauze squares, or other clean, absorbent, disposable material.

15.13) The individual performing the procedure shall wash the completed tattoo with a single use gauze square or individual cotton ball or square saturated with an approved antibacterial solution. The tattooed area shall be allowed to dry, after which the individual performing the procedure shall apply to the site antibiotic ointment from a collapsible or plastic tube, or its equivalent. The ointment shall be applied by use of a single use gauze square, individual cotton ball or square or single use wooden tongue depressor. In the case of an antibiotic-sensitive patron, the use of an antibacterial soap on the tattoo site shall be sufficient to meet the purpose of this paragraph. The individual performing the procedure shall apply to the site a non-adherent, sterile dressing, or a dressing acceptable to the Mid-Ohio Valley Health Department, and secure it with non-allergenic tape. Use of paper napkins, saran wrap, or other similar plastic films, and tape for dressing shall not be acceptable.

15.14) The operator shall provide each patron with oral and written care instructions following the tattooing procedure.

15.15) All obvious injuries or infections resulting directly from the practice of tattooing which are known or become known to the operator shall be reported to the Mid-

Ohio Valley Health Department by the operator who will immediately advise the patron to seek the services of a physician.

16. Records

16.1.) Businesses shall maintain records of all procedures performed for the following period;

16.1.a) Tattoo Establishments- Five (5) years

16.1.b) Body Piercing Establishments- Three (3) years

16.2) The record shall include:

16.2.a) Copy of Client's valid picture identification of copy of Parent/guardian valid picture identification, if client is a minor.

16.2.b) In the case of a minor, the proof of parental or guardian presence and written consent.

16.2.c) The date of the procedure;

16.2.d) The type and location of each procedure performed;

16.2.e) The name of the technician who performed each procedure;

16.2.f) The signature of the client; and

16.3) The Tattoo or Body Piercing Studio Business shall maintain signed copies of the client Release Form and Aftercare Form. These forms shall provide:

16.3.a) Verification that the client was given written and oral notification of the risks associated with tattooing or body piercing; and

16.3.b) Verification that the client was given written and oral instructions on post tattooing or piercing skin care.

16.4.) All records shall be available for inspection by the Mid-Ohio Valley Health Department.

17. Violations and Penalties.

17.1) The penalty for violation of the provisions of this rule are established in W. Va. Code 16-37-5 and 16-38-7.

Under age tattooing and body piercing

(a) any owner of a tattoo/body piercing facility who fails to obtain parental consent for a minor under the age of eighteen or willfully allows minors to obtain tattoo or body piercing without parental/guardian consent is guilty of a misdemeanor and upon conviction thereof, for a first offense, shall be fined \$100.00.

(b) For a second offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$ 500.00 or more than \$ 1000.00.

(c) For third offense or subsequent offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$ 500.00 or more than \$ 1000.00.

Operation and Design

(a) Any person who violates any provision of this regulation is guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than \$200.00

(b) Each Day's failure to comply with applicable provision of this rule constitutes a separate offense.

18. Administrative Due Process.

18.1. Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges may do so in accordance with the Division of Health Rule, A Rules of Procedure for Contested Case Hearings and Declaratory Rulings, @ 64CSR1.