

10-144A DEPARTMENT OF HEALTH AND HUMAN SERVICES
BUREAU OF HEALTH
Chapter 209 RULES RELATING TO BODY PIERCING

SUMMARY: These rules require people who practice body piercing to obtain licenses and to show proof of providing the proper facilities, equipment and procedures to protect the public's health and safety.

1. ADMINISTRATION

A. No person shall pierce the body of another human being without first obtaining a license from the Department of Health and Human Services. (Critical)

1. An applicant shall obtain a body piercing application form from the Department, complete and submit it to the Department with the following:

a. The information will include: applicant's name, home and mailing address, business address, and telephone number, date of birth, social security number or federal employer identification number and a description of the applicant's experience in performing body piercing.

b. A \$50 non-refundable fee shall be submitted with the application for licensure as a body piercer. A combined body piercing and tattoo practitioner license is available to qualified applicants for a non-refundable fee of \$75.

c. All new applications and renewals shall provide proof of satisfactory completion within the last three years, of a blood borne pathogen-training program given or approved by the Department.

B. The Department of Health and Human Services is empowered to license persons to practice body piercing. A separate body piercing license is required for each operating location, as licenses are issued to an individual for a specific approved establishment. Such licenses shall be issued annually by the Department upon payment of a fee of \$50 for each operating location. The licenses shall expire one year from date of issue, unless combined with a tattoo practitioner license, which expires on September 29th of each year.

C. The Department of Health and Human Services is authorized and empowered to make necessary rules governing body piercing.

D. A person who practices body piercing without a license, violates the standards set by these rules, or performs body piercing on a minor without the lawful consent of the minor's parent or parents, or guardian is guilty of a civil violation for which a forfeiture of not less that \$50 nor more than \$500 may be adjudged for each violation.

E. Suspension or Revocation of Licenses

Licenses will be suspended or revoked in conformity with the Maine Administrative Procedures Act (Title 5, chapter 375, subchapter IV). The Department may request an emergency suspension of any license by the District Court pursuant to 4 M.R.S.A. §184 (6) and 5 M.R.S.A. §10004 , if and when conditions are found which violate these rules, or which may be an immediate threat to the public health, safety or welfare, or endanger the life, health or safety of persons living in or attending any licensed establishment.

2. GENERAL PROVISIONS

A. Definitions

1. Aftercare: Instructions on caring for the piercing and surrounding area.
2. Autoclave: Pressure vessel using steam, pressure, heat and time to kill microorganisms. It must be used according to manufacturer's directions. A pressure cooker is not an autoclave.
3. Body piercer: A person who performs body piercing on another.
4. Body piercing: The creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose or eyebrow. Body piercing, for the purpose of these rules, does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.
5. Body piercing establishment: The premises where a body piercer performs body piercing.
6. Commissioner: Commissioner of Health and Human Services.
7. Critical Violation: Means any violation of these rules which presents a clear risk of contamination, illness, or environmental health hazard.
8. Department: Department of Health and Human Services.
9. Ethylene Oxide: A method of sterilization, involving high pressure, conducted in a manufacturing facility.
10. Minor: An individual under 18 years of age who is not emancipated as defined by Title 15, section 3003, subsection 6.
11. Operator: The person who pierces the body of a human being, and is 18 years of age or older.
12. Person: An individual.
13. Shall: A term used to indicate that which is required, the only acceptable method under these rules.

14. Should: A term used to reflect the more preferable procedure, yet providing for the use of effective alternatives.

15. Sterilize: Shall mean to render free from infectious organisms, by use of an autoclave used in accordance with accepted sterilizing procedures, unless previously manufactured and packaged with ethylene oxide form of sterilization.

16. Ultrasonic machine: A mechanical device that uses sound wave vibration through a liquid medium to clean soiled or used instruments or utensils before being sterilized.

17. Work Station: The actual area where a body piercing is being performed, including work surfaces and all clean and sterile equipment being utilized during the application of a body piercing.

B. Severability

1. The provisions of the rules are severable. If any provision of these rules is invalid, or if the application to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

3. SANITARY FACILITIES

A. Water supply. The water supply shall be adequate, of a safe sanitary quality, and from a source approved by the Department. (Critical)

- 1) Water from a public water system, as defined under Maine law, shall meet the federal water standards established under the *National Primary Drinking Water Rules, 40 CFR Part 141*, and the *Department of Human Services Rules Relating to Drinking Water, 10-144 CMR, Chapter 231*, as well as all applicable state and federal drinking water quality rules at all times.
- 2) Water from a licensed establishment that does not meet the definition of a regulated public water system shall meet state drinking water quality standards.
- 3) Drinking water acquired from a surface water source shall be adequate, of a safe, sanitary quality, approved by the Department, and properly disinfected with chlorine.
 - a) Ground water sources required to be chlorinated and surface water sources shall maintain a chlorine residual, after 30 minutes contact time, of 0.25 ppm free chlorine or 1.0 ppm total chlorine.
 - b) A written daily record of chlorine residuals shall be maintained and available to the Department upon request. A bacteriological analysis and test for turbidity shall be conducted monthly when the establishment is in operation.
- 4) All water, not piped into the establishment directly from the source, shall be transported, handled, stored and dispensed in a sanitary manner.
- 5) Bottled and packaged potable water shall be obtained from a source that complies with all laws and meets the State of Maine Rules Relating to Bottling Water and the Primary Drinking Water Standards. Such bottled and packaged water shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

- 6) Hot and cold water under pressure shall be provided at all sinks and lavatories during the hours of operation in all establishments and in locations where equipment are washed. An applicant may be relieved of this requirement upon a demonstration of good cause, approved by the Department.
- 7) All private water supplies shall be subject to inspection by the Department at all times. Water from such sources shall not be used or supplied to the public unless samples therefrom have been tested and approved within the preceding twelve (12) month period by the Department, or other certified laboratories approved by the Department. Additional tests may be required by the Drinking Water Program. A copy of the water analysis, and other supporting documentation, shall be available for inspection by the Department at all times.

B. Sewage Disposal.

- 1) Water-Carried Sewage: All water-carried sewage shall be disposed of by means of:
 - a) Public sewage system; or
 - b) An approved sewage disposal system that is designed, constructed, and operated in conformance with the State of Maine Subsurface Wastewater Disposal Rules, CMR 10-144 Chapter 241; or
 - c) A wastewater discharge system licensed by the Department of Environmental Protection under Title 38 MRSA §413 & §414-A as amended.
- 2) Non-Water Carried Sewage: Non-water carried sewage disposal facilities shall not be used, except where water carried disposal methods have been determined by the Department to be impractical. Under such conditions, only facilities that have been approved by the Department shall be used, and operation of these facilities shall be in conformance with applicable State and local laws, ordinances and regulations.

C. Establishment. (Critical)

1. Screening: Effective control measures shall be utilized to minimize the presence of any and all vermin from the body piercing establishment.
2. The workstation in which body piercing is done shall have an area of not less than 100 square feet. The area designated for the practice of body piercing will be separated from any waiting or common area by a wall or door not less than 4 feet in height.

D. Illumination. (Critical)

1. At least 10 foot-candles of light intensity shall be provided at a distance of thirty inches (30") above the floor throughout the body piercing room and at least 25 foot-candles of light shall be maintained at the work station.

E. Floors walls and ceilings.

1. All floors shall be kept clean and in good repair. All surfaces shall be easily cleanable and smooth.
2. All walls and ceilings, including doors, windows, skylights, studs, joists, rafters and similar closures shall be kept clean, in good repair, and be easily cleanable.

3. Light fixtures, decorative material, and similar equipment, and material attached to walls or ceilings, shall be kept clean.

F. Toilet Facilities.

1. A toilet and lavatory shall be located in or adjacent to the body-piercing establishment and shall be accessible to the body piercer and client at all times that the establishment is open for business. Toilet and lavatory shall not be available to the general public.

2. A lavatory with hot and cold running water, under pressure, preferably from a combination supply fixture shall be located in the workstation where body piercing is performed. Anti-bacterial hand cleanser and disposable sanitary towels shall be provided. (Critical)

3. Toilet rooms shall be vented.

4. The use of common towels and cups shall be prohibited. (Critical)

G. Service tables. All service tables shall be constructed of easily cleanable material, with a smooth washable finish, and separated from waiting customers or observers by a panel or wall at least four (4) feet high. (Critical)

H. The entire premises and all facilities used in connection therewith shall be maintained in a clean, sanitary, vermin-free condition and in good repair.

4. BODY PIERCING PROCEDURES

A. No body piercing shall be practiced on the person of any individual who is obviously under the influence of intoxicating liquor, or chemical substances. No intoxicating beverages or chemical substances shall be consumed on the body piercing premises. This rule includes, but is not limited to, the body piercer. (Critical)

B. No body piercing shall be practiced on the person of any one who is less than 18 years of age, as verified by a driver's license, liquor ID card, military ID card, or other adequate record without the lawful consent of the minor's parents or guardians. In the event a body piercing practitioner proposes to perform services upon a person under 18 years of age, the practitioner shall be required to obtain from the person's parent(s) or guardian(s) proper identification and the same shall be noted on the record. (Critical)

C. The operator shall be 18 years of age or older. (Critical)

D. Neither the operator nor the person being pierced shall use tobacco in any form while body piercing procedure is being performed. (Critical)

E. Body Piercers shall perform only those professional services for which they are licensed.

F. The operator shall wash his or her hands thoroughly with antibacterial soap and water and hands shall be dried with individual single use towels before starting to pierce. (Critical)

G. The operator shall use single service impervious gloves on both hands before and during the piercing. (Critical)

H. The operator shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing with an antiseptic solution applied with a clean single-use paper product before and after piercing the client's skin. (Critical)

I. All substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Single use tubes or containers and applicators shall be cleaned by ultrasonic cleaning method and discarded following the piercing service. (Critical)

J. Used needles shall be disposed of in a sharps container. Each establishment must register with the Department of Environmental Protection Biomedical Waste Management Rules, C.M.R. Ch. 900. (Critical)

K. The use of styptic pencils, alum blocks, or other solid or liquid styptics to check the flow of blood is prohibited. (Critical)

L. A medical history of the client shall be obtained. All clients shall be advised of possible complications from being body pierced. Anyone with a history of diabetes or severe skin infections shall be advised of possible additional complications from being body pierced. All clients shall be questioned about any history of latex allergy. (Critical)

M. Aftercare shall be administered to each client following service. Aftercare shall consist of both verbal and written instructions concerning proper care of the pierced area. Instructions shall specify:

1. Care following service
2. Possible side effects
3. Restrictions
4. Name of body piercer
5. Name of establishment
6. Contact number

(Critical)

N. All containers shall be labeled clearly of their contents. (Critical)

O. Jewelry inserted into a new piercing shall be composed of:

1. Gold (Solid 14K or 18K)
2. Surgical stainless steel (minimum of 316L or 316LVM) or
3. Platinum
4. Titanium (minimum of 6A14V), or
5. Multi Flex Plastic (MFP)

P. Jewelry shall be single-customer only, and must be individually packaged and sterilized prior to use. (Critical)

Q. Before a tool is used, each part shall be examined for burrs using a magnifier or eye loop. (Critical)

R. A new, single-use sterile needle shall be used for each customer. (Critical)

5. CARE OF INSTRUMENTS.

A. Storage of instruments: All clean, sterile, and ready-to-use needles, and instruments shall be kept in a closed glass, metal, or rigid plastic case, or storage cabinet while not in use. Such cabinet shall be maintained in a sanitary manner at all times. (Critical)

B. Sterilizing of instruments: (Critical)

1. An autoclave shall be provided for sterilizing all instruments before use on any customer, unless received and stored in sterile condition from manufacturer.

2. Before sterilizing, all needles and all similar instruments shall be thoroughly washed to remove blood clots, and all other foreign matter

3. The needles and instruments required to be sterilized shall be so used, stored, handled, and temporarily placed during body piercing so that they are not contaminated.

4. The sterilizer shall be spore tested at least once each month and records shall be maintained and available for inspection for a minimum period of one year. Each package of sterilized instruments shall be monitored for sterilization by the use of chemical/heat sensitive indicators that measure temperature and general functioning of the sterilizing equipment. Permanent records of sterilization shall be maintained and made available for inspection for a period of one year. Sterilized instruments stored in an approved manner and not used within 6 months of steam sterilization shall no longer be considered sterile and shall be re-sterilized before use.

Used needles shall be cleaned and sterilized before disposal. An ultrasonic cleaning machine and autoclave shall be recommended to fulfill this requirement.

6. RECORDS.

A. Permanent records for each patron shall be maintained for not less than two years by the person operating the establishment. Before the body piercing operation begins, the patron shall be required to personally enter on a record form provided by the establishment, the date, his or her name, address, age, picture identification, and his or her signature. Additionally, the body piercer shall obtain the signature of any parent or guardian who is lawfully entitled to grant consent to the body piercing practitioner. The body piercer shall verify the information that is recorded. Such records shall be maintained at the piercing establishment and shall be available at all times for examination upon request.

B. The information taken in each patron's medical history and questionnaire, as required in section (4) (L), shall be recorded on the medical history questionnaire form

C. Records shall be retained at the establishment by the operator for a period of not less than two (2) years. In the event of a change of ownership or closing of the business, all records shall be made available to the Department. The piercer shall issue a receipt to each patron setting forth the name and address of the establishment, contact number, and the piercer's name and signature.

D. A copy of the most recent inspection report shall be maintained at the establishment and the establishment shall post a notice advising patrons that a copy of the most recent inspection report is available for review by interested parties (sample notice is attached).

E. All infections resulting from the practice of body piercing which become known to the operator shall be reported to the Department within twenty-four (24) hours by the person owning or operating the body piercing establishment, and the infected client shall be referred to a physician. (Critical)

F. The Department has the right during the course of inspection, to photocopy, at the Departments expense, any or all records associated with patrons.

7. PHYSICIANS AND SURGEONS

A. These rules are not applicable to licensed physicians or surgeons.

BASIS STATEMENT: These rules shall be liberally construed and applied to promote their underlying purpose of protecting the public health.

STATUTORY AUTHORITY: 32 MRSA §4321 to 4329

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Non-Discrimination Notice

In accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §1981, 2000d et seq.) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and Title IX of the Education Amendments of 1972 (34 C.F.R. Parts 100, 104, 106, and 110), the Maine Department of Health and Human Services does not discriminate on the basis of sex, color, national origin, disability or age in admission or access to or treatment or employment in its programs and activities.

The Maine Department of Health and Human Services' Civil Rights Compliance Coordinator, has been designated to coordinate our efforts to comply with the U.S. Department of Health and Human Services regulations (45 C.F.R. Parts 80, 84, and 91), the Department of Justice regulations (28 C.F.R. part 35), and the U.S. Department of Education regulations (34 C.F.R.

Part 106) implementing these Federal laws. Inquiries concerning the application of these regulations and our grievance procedures for resolution of complaints alleging discrimination may be referred to the Civil Rights Compliance Coordinator at 221 State Street, Augusta, ME 04333, telephone number: (207) 287-3488 (Voice) or (207) 287-4479 (TDD), or the Assistant Secretary of the Office of Civil Rights of the applicable department (e.g. the Department of Education), Washington, D.C. Individuals who need auxiliary aids or services for effective communication in programs and services of DHHS are invited to make their needs and preferences known to the ADA/EEO Compliance Coordinator. This information is available in alternate formats upon request.