

Chapter 210 RULES RELATING TO TATTOOING

**SUMMARY:** These rules require people who practice the art of tattooing to obtain licenses and to show proof of the proper facilities, equipment, and procedures for the protection of the public's health and safety.

**1. ADMINISTRATION**

- A. No person shall place a tattoo upon the body of another human being without first obtaining a license from the Department of Health and Human Services. (Critical)
  - 1. An applicant for a practitioner's license shall submit a completed application form together with the following:
    - a. Information including: applicant's name, home and mailing address, business address, and telephone number and date of birth plus social security number or federal identification number.
    - b. All new applicants and renewals shall provide proof of having attended, within the last 3 years, a bloodborne pathogen training program given or approved by the Department.
    - c. A demonstration of knowledge of safe practices in regard to the art of tattooing.
    - d. The licensure fee.
  - 2. Applications shall be obtained from the Department.
- B. The Department of Health and Human Services is empowered to license persons to practice the art of tattooing. A separate tattoo practitioner 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 on September 30th of each year.
- C. The Department of Health and Human Services is authorized and empowered to make necessary rules governing the application of tattoos upon the bodies of human beings.
- D. Whoever violates these rules shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than 6 months.
- E. Suspension or Revocation of Licenses.

Licenses will be suspended or revoked in conformity with the Maine Administrative Act (Title 5, chapter 375, subchapter IV). The Department may request an emergency suspension of any license by District Court pursuant to Title 4, §184, 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. If a license issued under these rules has been revoked or denied for violation

of these rules, or pursuant to 5 M.R.S.A. §§ 5301 & 5302, the licensee named in the revocation, suspension or denial may not be eligible for relicensing under these rules.

## **2. GENERAL PROVISIONS**

### **A. Definitions.**

1. Aftercare: Instructions on how to care for a new tattoo.
2. Aseptic: Free from pathogenic microorganisms.
3. Autoclave: Pressure vessel using steam, pressure, heat and time to kill microorganisms. It must be used according to the manufacturers directions. A pressure cooker is not an autoclave.
4. Commissioner: Commissioner of Health and Human Services.
5. Critical Violation: Means any violation of these rules which presents a clear risk of contamination, illness, or environmental health hazard. The commission of a critical violation of these rules is an aggravating factor which may warrant a greater fine, imprisonment, or license suspension or revocation.
6. Department: Department of Health and Human Services.
7. Ethylene Oxide: A method of sterilization, involving high pressure, conducted in a manufacturing facility.
8. Minor: An individual under 18 years of age.
9. Person: An individual.
10. Pigment: The materials used in tattooing to implant a lasting pattern in the skin. Also, pigment may be referred to as “ink.”
11. Shall: A term used to indicate that which is required, the only acceptable method under these rules.
12. Should: A term used to reflect the more preferable procedure, yet providing for the use of effective alternatives.
13. Sterilize: 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 (E.O.) form of sterilization.
14. Tattoo: To insert pigment under the skin of a human being by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

15. Tattoo Establishment: Permanent, nondwelling premises where a Tattoo Practitioner performs tattooing.

16. Tattoo Practitioner: The person who places a tattoo on a human being, and is at least 18 years of age.

17. Tattoo Trade Show: An event held for the purpose of promoting the tattoo and other licensed body art industry, where a minimum of 20 licensed tattoo practitioners operate at an approved facility at a fixed location for a specified length of time of not more than seven days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing.

18. 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.

19. Work Station: The actual area where a tattoo is being applied, including work surfaces and all sterile equipment being utilized during the application of a tattoo.

#### B. Severability.

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 Health and 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. 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 sewerage 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 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 tattoo establishment.

2. Animals: Live animals, including birds and turtles, shall be excluded from the establishment, and from adjacent areas under the control of the license holder. Patrol dogs accompanying security or police officers, guide dogs accompanying handicapped persons, such as guide dogs for the blind or hearing ear guide dogs accompanying deaf and hearing impaired persons or a guide dog trainer, shall be permitted in the

establishment. The security person, police officer, handicapped person or guide dog trainer shall be responsible for their dogs in public accommodations.

3. The work station in which tattooing is done shall have an area of not less than 100 square feet. The area designated for the practice of the art of tattooing 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 tattooing 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 tattoo establishment and shall be accessible to the tattoo practitioner and client at all times that the tattooing establishment is open for business. The 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 each workstation where tattooing 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)

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

H. Temporary establishments. (Critical)

1. No person shall be licensed to practice the art of tattooing in any temporary place of business, such as agricultural fairs or carnivals. Tents, tent trailers, open-air facilities, and mobile tattoo establishments are prohibited.
2. A state licensed tattoo practitioner may practice the art of tattooing at a tattoo trade show approved by the Department. Approval of the facilities will be at the discretion of the Department and shall be in an approved building with hot and cold running water, handwashing facilities and toilets.

#### **4. TATTOOING PROCEDURES**

A. No tattooing 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 tattooing premises. This rule includes, but is not limited to, the tattoo practitioner. (Critical)

B. No food or beverages are allowed in the tattoo workstation. This rule includes, but is not limited to, the tattoo practitioner.

C. No tattooing shall be conducted outside of an approved tattoo establishment or approved tattoo trade show inspected by the Department and run by a licensed tattoo practitioner. No other unlicensed practices may be conducted within the approved tattoo establishment by the licensed tattoo practitioner. (Critical)

D. No tattooing 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. (Critical)

E. The tattoo practitioner shall be 18 years of age or older. (Critical)

F. Neither the tattoo practitioner, or person being tattooed shall use tobacco in any form while tattooing is being performed. (Critical)

G. The tattoo practitioner shall wash his or her hands thoroughly with antibacterial soap and water and dry them with individual single use disposable towels before starting to tattoo. (Critical)

H. The tattoo practitioner shall use single service impervious gloves on both hands before beginning all procedures associated with the application of the tattoo. (Critical)

I. No tattoo shall be penetrated, abraded, or treated with chemicals for the purpose of removal, except by licensed medical doctor. (Critical)

J. A safety razor with a new single service blade, a new single edge, single use, disposable razor or an autoclavable straight edge razor may be used for shaving on only one person. (Critical)

K. The area to be tattooed shall first be thoroughly washed for a period of at least two (2) minutes with warm water to which has been added an antiseptic soap. A new single use sponge, gauze or paper towel shall be used to wash the area. After shaving and before tattooing is begun, a solution of 70% alcohol shall be applied to the area with a single use sponge, gauze or paper towel. (Critical)

L. Only petroleum jelly, anti-bacterial, or anti-biotic ointment in collapsible metal, plastic tubes, or its equivalent as approved by the Department, shall be used on the area to be tattooed and it shall be applied with a sterile gauze or single use tongue depressor. (Critical)

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

N. Any and all substances being applied to the skin including, but not limited to, enhancements of applicability of transfers, etc., will be done with a single service applicator. (Critical)

O. All needles shall be of the single service type. (Critical)

P. Single service items including, but not limited to, individual containers of dye or ink, gloves, ointments, razors, and all other applicable supplies shall be used for each patron and the containers shall be discarded immediately after completing work on a patron and any dye in which needles were dipped shall not be used on any other person. These items shall be disposed of in accordance with state and local laws, utilizing the highest of safety precautions. Used needles used shall be properly disposed of in a sharps container, in accordance with subsection 5.B.2. Each establishment must register with the Department of Environmental Protection Biomedical Waste Management Rules, 06-096 C.M.R. Ch. 900. (Critical)

Q. Excess dye or ink shall be removed from the skin with an individual gauze or new single use paper towel which shall be used only on one person and then immediately discarded. (Critical)

R. After completing work on any person, the tattooed area shall be washed with sterile gauze saturated with an antiseptic soap solution approved by the Department, or a 70% alcohol solution. The tattooed area shall be allowed to dry and petroleum jelly, antiseptic ointment, antibacterial ointment, or antibiotic ointment, from a single use collapsible or plastic tube or other single service method of dispensing, shall be applied, using sterile gauze. A sterile, non-adherent protective cover shall be applied to the finished tattoo before the customer leaves the establishment. (Critical)

S. The tattoo practitioner shall provide written and verbal instructions to the person that has been tattooed. Verbal and written instructions on how to care for a new tattoo will include at a minimum: bandages, time guidelines, skin care, clothing, injuries, exposure to U.V. light, exposure to chlorinated and salt water, and skin care products and the practitioner's name. In addition, written instructions will include information when to seek medical treatment if necessary. (Critical)

T. Once the patron has left, the tattoo workstation shall be completely cleaned and sanitized to include the service chair or table and all tattoo related equipment before the next patron is

allowed into the tattoo area. All autoclaveable items shall be replaced with clean autoclaveable items stored in individual sterile packets. After completion of this requirement, the tattoo artist shall thoroughly wash his or her hands with antibacterial soap, and dry them with a disposable single use towel. (Critical)

U. All containers shall be labeled clearly with their contents. (Critical)

V. Needles shall be examined for burrs with a magnifier or eye loop (loupe) before being used. (Critical)

W. A medical history of the client shall be obtained. All clients shall be advised of possible complications from being tattooed. Anyone with a history of diabetes or severe skin infections shall be advised of possible additional complications from being tattooed. All clients shall be questioned about any history of latex allergy.

## **5. CARE OF INSTRUMENTS.**

A. Storing of instruments: All clean and ready-to-use needles and instruments shall be kept in sterile packets and stored 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 used for sterilizing all needles and similar instruments packed in sterile packets before use on any customer, unless received and stored in sterile condition from manufacturer.
2. Dirty instruments awaiting sterilization shall be handled and stored so as not to contaminate any person, clean surface or equipment. Before sterilizing, all instruments shall be thoroughly washed to remove dyes, blood clots, and all other foreign matter. An Ultrasonic cleaning machine shall be used to complete this requirement.
3. The needles and instruments temporarily set down during tattooing must not become contaminated.
4. The autoclave 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.
5. 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. The information taken in each patron's medical history and questionnaire, as required in section (4) (TBA), shall be recorded on the medical history questionnaire form."

B. Permanent records for each patron, including a signed copy of the written aftercare instructions provided to the patron, shall be maintained by the person operating the establishment. Before the tattooing operation begins, the patron shall be required to personally enter on a record form provided for such establishments, the date, his or her name, address, age, and a picture identification used as proof, with serial number of identification used and his or her signature. The tattoo practitioner shall verify the information entered is correct. Such records shall be maintained in the tattoo establishment and shall be available at all times for examination upon request.

C. Records shall be retained 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 tattoo practitioner shall issue a receipt to each patron setting forth the name and address of the establishment, along with the practitioner's name, signature, type, and location of the tattoo.

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 tattooing which become known to the tattoo practitioner shall be reported to the Department within twenty-four (24) hours by the person owning or operating the tattooing establishment, and the infected client shall be referred to a physician. (Critical)

## **7. PHYSICIANS AND SURGEONS**

In accordance with the provisions of M.R.S.A. § 4202, these rules are not applicable to conduct by physicians, surgeons, or other practitioners of the healing arts licensed in this state and performed in the course of practice.

## **8. TATTOOING OF ANIMALS.**

A. No person shall allow the tattooing of animals in a tattoo establishment used for tattooing human beings. (Critical)

B. No needles or similar instruments used in tattooing human beings shall be used to tattoo animals. (Critical)

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

**STATUTORY AUTHORITY:** 32 MRSA §§ 4203, 4204, 4251, 4252, & 4301  
Effective date: May 4, 1978

Amended date: June 2000  
March 16, 2005

**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, race, 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.

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