

**CHAPTER 317—S.F.No. 525**

*An act relating to health occupations; establishing a regulation system for technicians performing body art procedures and for body art establishments; adopting penalty fees; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 146B.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[146B.01] DEFINITIONS.**

Subdivision 1. **Scope.** The terms defined in this section apply to this chapter.

Subd. 2. **Aftercare.** "Aftercare" means written instructions given to a client, specific to the procedure rendered, on caring for the body art and surrounding area. These instructions must include information on when to seek medical treatment.

Subd. 3. **Antiseptic.** "Antiseptic" means an agent that destroys disease-causing microorganisms on human skin or mucosa.

Subd. 4. **Body art.** "Body art" or "body art procedures" means physical body adornment using, but not limited to, tattooing and body piercing. Body art does not include practices and procedures that are performed by a licensed medical or dental professional if the procedure is within the professional's scope of practice.

Subd. 5. **Body art establishment.** "Body art establishment" or "establishment" means any structure or venue, whether permanent, temporary, or mobile, where body art is performed. Mobile establishments include vehicle-mounted units, either motorized or trailered, and readily moveable without disassembling and where body art procedures are regularly performed in more than one geographic location.

Subd. 6. **Body piercing.** "Body piercing" means the penetration or puncturing of the skin by any method for the purpose of inserting jewelry or other objects in or through the body. Body piercing also includes branding, scarification, suspension, subdermal implantation, microdermal, and tongue bifurcation. Body piercing does not include the piercing of the outer perimeter or the lobe of the ear using a presterilized single-use stud-and-clasp ear-piercing system.

Subd. 7. **Branding.** "Branding" means an indelible mark burned into the skin using instruments of thermal cautery, radio hyfrecation, and strike branding.

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 9. **Contaminated waste.** "Contaminated waste" means any liquid or semiliquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semiliquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; and sharps and any wastes containing blood and other potentially infectious materials, as defined in Code of

Federal Regulations, title 29, section 1910.1030, known as "Occupational Exposure to Bloodborne Pathogens."

Subd. 10. **Department.** "Department" means the Department of Health.

Subd. 11. **Equipment.** "Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in the operation of a body art establishment.

Subd. 12. **Guest artist.** "Guest artist" means an individual who performs body art procedures according to the requirements under section 146B.04.

Subd. 13. **Hand sink.** "Hand sink" means a sink equipped with potable hot and cold water held under pressure, used for washing hands, wrists, arms, or other portions of the body.

Subd. 14. **Hot water.** "Hot water" means water at a temperature of at least 110 degrees Fahrenheit.

Subd. 15. **Jewelry.** "Jewelry" means any ornament inserted into a pierced area.

Subd. 16. **Liquid chemical germicide.** "Liquid chemical germicide" means a tuberculocidal disinfectant or sanitizer registered with the Environmental Protection Agency.

Subd. 17. **Microdermal.** "Microdermal" means a single-point perforation of any body part other than an earlobe for the purpose of inserting an anchor with a step either protruding from or flush with the skin.

Subd. 18. **Micropigmentation or cosmetic tattooing.** "Micropigmentation or cosmetic tattooing" means the use of tattoos for permanent makeup or to hide or neutralize skin discolorations.

Subd. 19. **Operator.** "Operator" means any person who controls, operates, or manages body art activities at a body art establishment and who is responsible for the establishment's compliance with these regulations, whether or not the person actually performs body art activities.

Subd. 20. **Procedure area.** "Procedure area" means the physical space or room used for conducting body art procedures.

Subd. 21. **Procedure surface.** "Procedure surface" means the surface area of furniture or accessories that may come into contact with the client's clothed or unclothed body during a body art procedure and the area of the client's skin where the body art procedure is to be performed and the surrounding area, or any other associated work area requiring sanitizing.

Subd. 22. **Scarification.** "Scarification" means an indelible mark fixed on the body by the production of scars.

Subd. 23. **Sharps.** "Sharps" means any object, sterile or contaminated, that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, presterilized single-use needles, scalpel blades, and razor blades.

Subd. 24. **Sharps container.** "Sharps container" means a closed, puncture-resistant, leak-proof container, labeled with the international biohazard symbol, that is used for handling, storage, transportation, and disposal.

Subd. 25. **Single use.** "Single use" means products or items intended for onetime use which are disposed of after use on a client. This definition includes, but is not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves.

Subd. 26. **Sterilization.** "Sterilization" means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

Subd. 27. **Subdermal implantation.** "Subdermal implantation" means the implantation of an object entirely below the dermis.

Subd. 28. **Supervision.** "Supervision" means the physical presence of a technician licensed under this chapter while a body art procedure is being performed.

Subd. 29. **Suspension.** "Suspension" means the suspension of the body from affixed hooks placed through temporary piercings.

Subd. 30. **Tattooing.** "Tattooing" means any method of placing indelible ink or other pigments into or under the skin or mucosa with needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. Tattooing also includes micropigmentation and cosmetic tattooing.

Subd. 31. **Technician.** "Technician" or "body art technician" means any individual who is licensed under this chapter as a tattoo technician or as a body piercing technician or as both.

Subd. 32. **Temporary body art establishment.** "Temporary body art establishment" means any place or premise operating at a fixed location where an operator performs body art procedures for no more than 21 days in conjunction with a single event or celebration.

Subd. 33. **Tongue bifurcation.** "Tongue bifurcation" means the cutting of the tongue from the tip to the base, forking at the end.

## Sec. 2. [146B.02] ESTABLISHMENT LICENSE PROCEDURES.

Subdivision 1. **General.** Beginning January 1, 2011, no person acting individually or jointly with any other person may maintain, own, or operate a body art establishment in the state without an establishment license issued by the commissioner in accordance with this chapter, except as permitted under subdivision 8 or 9.

Subd. 2. **Requirements.** (a) Each application for an initial establishment license and for renewal must be submitted to the commissioner on a form provided by the commissioner accompanied with the applicable fee required under section 146B.10. The application must contain:

- (1) the name(s) of the owner(s) and operator(s) of the establishment;
- (2) the location of the establishment;
- (3) verification of compliance with all applicable local and state codes;
- (4) a description of the general nature of the business; and
- (5) any other relevant information deemed necessary by the commissioner.

(b) The commissioner shall issue a provisional establishment license effective until the commissioner determines after inspection that the applicant has met the requirements

of this chapter. Upon approval, the commissioner shall issue a body art establishment license effective for three years.

Subd. 3. **Inspection.** (a) Within the period of the provisional establishment license, and thereafter at least one time during each three-year licensure period, the commissioner shall conduct an inspection of the body art establishment and a review of any records necessary to ensure that the standards required under this chapter are met.

(b) The commissioner shall have the authority to enter a premises to make an inspection. Refusal to permit an inspection constitutes valid grounds for licensure denial or revocation.

(c) If the establishment seeking licensure is new construction or if a licensed establishment is remodeling, the establishment must meet all local building and zoning codes.

Subd. 4. **Location restricted.** No person may perform a body art procedure at any location other than a body art establishment licensed under this chapter except as permitted under subdivisions 8 and 9.

Subd. 5. **Transfer and display of license.** A body art establishment license must be issued to a specific person and location and is not transferable. A license must be prominently displayed in a public area of the establishment.

Subd. 6. **Establishment information.** The following information must be kept on file for three years on the premises of the establishment and must be made available for inspection upon request by the commissioner:

- (1) a description of all body art procedures performed by the establishment;
- (2) copies of the spore tests conducted on each sterilizer; and
- (3) the following information for each technician or guest artist employed or performing body art procedures in the establishment:
  - (i) name;
  - (ii) home address;
  - (iii) home telephone number;
  - (iv) date of birth;
  - (v) copy of an identification photo; and
  - (vi) license number or guest artist license number.

Subd. 7. **Establishments located in a private residence.** If the body art establishment is located within a private residence, the space where the body art procedures are performed must:

- (1) be completely partitioned off;
- (2) be exclusively used for body art procedures, except for licensed practices under chapter 155A which must be performed in compliance with the health and safety standards in this chapter;
- (3) be separate from the residential living, eating, and bathroom areas;

(4) have a separate and secure entrance accessible without entering the residential living, eating, and bathroom areas;

(5) meet the standards of this chapter; and

(6) be made available for inspection upon the request of the commissioner.

Subd. 8. **Temporary events permit.** (a) An owner or operator of a temporary body art establishment shall submit an application for a temporary events permit to the commissioner at least 14 days before the start of the event. The application must include the specific days and hours of operation. The owner or operator shall comply with the requirements of this chapter.

(b) The temporary events permit must be prominently displayed in a public area at the location.

(c) The temporary events permit, if approved, is valid for the specified dates and hours listed on the application. No temporary events permit shall be issued for longer than a 21-day period, and may not be extended.

Subd. 9. **Exception.** (a) Any body art establishment located within a county or municipal jurisdiction that has enacted an ordinance that establishes licensure for body art establishments operating within the jurisdiction shall be exempt from this chapter if the provisions of the ordinance meet or exceed the provisions of this chapter. Any county or municipal jurisdiction that maintains an ordinance that meets this exception may limit the types of body art procedures that may be performed in body art establishments located within its jurisdiction.

(b) Any individual performing body art procedures in an establishment that meets an exception under this subdivision must be licensed as a body art technician under this chapter.

### Sec. 3. **[146B.03] LICENSURE FOR BODY ART TECHNICIANS.**

Subdivision 1. **Licensure required.** (a) Effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid tattoo technician license issued by the commissioner under this chapter, except as provided in subdivision 3.

(b) Effective January 1, 2011, no individual may perform body piercing unless the individual holds a valid body piercing technician license issued by the commissioner under this chapter, except as provided in subdivision 3.

(c) If an individual performs both tattooing and body piercing, the individual must hold a valid dual body art technician license.

Subd. 2. **Designation.** (a) No individual may use the title of "tattooist," "tattoo artist," "tattoo technician," "body art practitioner," "body art technician," or other letters, words, or titles in connection with that individual's name which in any way represents that the individual is engaged in the practice of tattooing or authorized to do so, unless the individual is licensed and authorized to perform tattooing under this chapter.

(b) No individual may use the title "body piercer," "body piercing artist," "body art practitioner," "body art technician," or other letters, words, or titles in connection with that individual's name which in any way represents that the individual is engaged in the practice of body piercing or authorized to do so, unless the individual is licensed and authorized to perform body piercing under this chapter.

(c) Any representation made to the public by a licensed technician must specify the types of body art procedures the technician is licensed to perform.

Subd. 3. **Exceptions.** (a) The following individuals may perform body art procedures within the scope of their practice without a technician's license:

- (1) a physician licensed under chapter 147;
- (2) a nurse licensed under sections 148.171 to 148.285;
- (3) a chiropractor licensed under chapter 148;
- (4) an acupuncturist licensed under chapter 147B;
- (5) a physician's assistant licensed under chapter 147A; or
- (6) a dental professional licensed under chapter 150A.

(b) A guest artist under section 146B.04 may perform body art procedures in accordance with the requirements of section 146B.04.

Subd. 4. **Licensure requirements.** An applicant for licensure under this section shall submit to the commissioner on a form provided by the commissioner:

- (1) proof that the applicant is over the age of 18;
- (2) the type of license the applicant is applying for;
- (3) all fees required under section 146B.10;
- (4) proof of completing a minimum of 200 hours of supervised experience within the area for which the applicant is seeking a license, and must include an affidavit from the supervising licensed technician;

(5) proof of having satisfactorily completed coursework approved by the commissioner on bloodborne pathogens, the prevention of disease transmission, infection control, and aseptic technique. Courses to be considered for approval by the commissioner may include, but are not limited to, those administered by one of the following:

- (i) the American Red Cross;
- (ii) United States Occupational Safety and Health Administration (OSHA); or
- (iii) the Alliance of Professional Tattooists; and
- (6) any other relevant information requested by the commissioner.

Subd. 5. **Action on licensure applications.** (a) The commissioner shall notify the applicant in writing of the action taken on the application. If the application is approved, the commissioner shall issue a tattoo technician license, a body piercing technician license, or a dual body art technician license.

(b) If licensure is denied, the applicant must be notified of the determination and the grounds for it, and the applicant may request a hearing under chapter 14 on the determination by filing a written statement with the commissioner within 30 days after receipt of the notice of denial. After the hearing, the commissioner shall notify the applicant in writing of the decision.

Subd. 6. **Licensure term; renewal.** (a) A technician's license is valid for two years from the date of issuance and may be renewed upon payment of the renewal fee established under section 146B.10.

(b) At renewal, a licensee must submit proof of continuing education approved by the commissioner in the areas identified in subdivision 4, clause (5).

Subd. 7. **Temporary licensure.** (a) The commissioner may issue a temporary license to an applicant who submits to the commissioner on a form provided by the commissioner:

(1) proof that the applicant is over the age of 18;

(2) all fees required under section 148B.10; and

(3) a letter from a licensed technician who has agreed to provide the supervision to meet the supervised experience requirement under subdivision 4, clause (4).

(b) Upon completion of the required supervised experience, the temporary licensee shall submit documentation of satisfactorily completing the requirements under subdivision 4, clauses (3) and (4), and the applicable fee under section 146B.10. The commissioner shall issue a new license in accordance with subdivision 4.

(c) A temporary license issued under this subdivision is valid for one year and may be renewed for one additional year.

Subd. 8. **License by reciprocity.** The commissioner shall issue a technician's license to a person who holds a current license, certification, or registration from another state if the commissioner determines that the standards for licensure, certification, or registration in the other jurisdiction meet or exceed the requirements for licensure stated in this chapter and a letter is received from that jurisdiction stating that the applicant is in good standing.

Subd. 9. **Transfer and display of license.** A license issued under this section is not transferable to another individual. A valid license must be displayed at the establishment site and available to the public upon request.

Subd. 10. **Transition period.** Until January 1, 2012, the supervised experience requirement under subdivision 4, clause (4), shall be waived by the commissioner if the applicant submits to the commissioner evidence satisfactory to the commissioner that the applicant has performed at least 2,080 hours within the last five years in the body art area in which the applicant is seeking licensure.

#### Sec. 4. **[146B.04] TEMPORARY LICENSURE FOR GUEST ARTISTS.**

Subdivision 1. **General.** Before an individual may work as a guest artist, the commissioner shall issue a temporary license to the guest artist. The guest artist shall submit an application to the commissioner on a form provided by the commissioner. The form must include:

(1) the name, home address, and date of birth of the guest artist;

(2) the name of the licensed technician sponsoring the guest artist;

(3) proof of having satisfactorily completed coursework approved by the commissioner on bloodborne pathogens, the prevention of disease transmission, infection control, and aseptic technique;

(4) the starting and anticipated completion dates the guest artist will be working; and

(5) a copy of any current body art credential or licensure issued by another local or state jurisdiction.

Subd. 2. **Guest artists.** A guest artist may not conduct body art procedures for more than 30 days per calendar year. If the guest artist exceeds this time period, the guest artist must apply for a technician's license under section 146B.03.

**Sec. 5. [146B.05] GROUNDS FOR DENIAL OF AN ESTABLISHMENT LICENSE OR EMERGENCY CLOSURE.**

Subdivision 1. **General.** If any of the following conditions exist, the owner or operator of a licensed establishment may be ordered by the commissioner to discontinue all operations of a licensed body art establishment or the commissioner may refuse to grant or renew, suspend, or revoke licensure:

(1) evidence of a sewage backup in an area of the body art establishment where body art activities are conducted;

(2) lack of potable, plumbed, or hot or cold water to the extent that handwashing or toilet facilities are not operational;

(3) lack of electricity or gas service to the extent that handwashing, lighting, or toilet facilities are not operational;

(4) significant damage to the body art establishment due to tornado, fire, flood, or another disaster;

(5) evidence of an infestation of rodents or other vermin;

(6) evidence of any individual performing a body art procedure without a license as required under this chapter;

(7) evidence of existence of a public health nuisance;

(8) use of instruments or jewelry that are not sterile;

(9) failure to maintain required records;

(10) failure to use gloves as required;

(11) failure to properly dispose of sharps, blood or body fluids, or items contaminated by blood or body fluids;

(12) failure to properly report complaints of potential bloodborne pathogen transmission to the commissioner; or

(13) evidence of a positive spore test on the sterilizer if there is no other working sterilizer with a negative spore test in the establishment.

Subd. 2. **Licensure or reopening requirements.** Prior to license approval or renewal or the reopening of the establishment, the establishment shall submit to the commissioner satisfactory proof that the problem condition causing the need for the licensure action or emergency closure has been corrected or removed by the operator of the establishment. A body art establishment may not reopen without the written approval of the commissioner and a valid establishment license.

**Sec. 6. [146B.06] HEALTH AND SAFETY STANDARDS.**

Subdivision 1. **Establishment standards.** (a) The body art establishment must meet the health and safety standards in this subdivision before a licensed technician may conduct body art procedures at the establishment.



(b) The procedure area must be separated from any other area that may cause potential contamination of work surfaces.

(c) For clients requesting privacy, at a minimum, a divider, curtain, or partition must be provided to separate multiple procedure areas.

(d) All procedure surfaces must be smooth, nonabsorbent, and easily cleanable.

(e) The establishment must have an accessible hand sink equipped with:

(1) liquid hand soap;

(2) single-use paper towels or a mechanical hand drier or blower; and

(3) a nonporous washable garbage receptacle with a foot-operated lid or with no lid and a removable liner.

(f) All ceilings in the body art establishment must be in good condition.

(g) All walls and floors must be free of open holes or cracks and be washable and no carpeting may be in areas used for body art procedures unless the carpeting is entirely covered with a rigid, nonporous, easily cleanable material.

(h) All facilities within the establishment must be maintained in a clean and sanitary condition and in good working order.

(i) No animals may be present during a body art procedure, unless the animal is a service animal.

Subd. 2. **Standards for equipment, instruments, and supplies.** (a) Equipment, instruments, and supplies must comply with the health and safety standards in this subdivision before a licensed technician may conduct body art procedures.

(b) Jewelry used as part of a body art procedure must be made of surgical implant-grade stainless steel, solid 14-karat or 18-karat white or yellow gold, niobium, titanium, or platinum, or a dense low-porosity plastic. Use of jewelry that is constructed of wood, bone, or other porous material is prohibited.

(c) Jewelry used as part of a body art procedure must be free of nicks, scratches, or irregular surfaces and must be properly sterilized before use.

(d) Reusable instruments must be thoroughly washed to remove all organic matter, rinsed, and sterilized before and after use.

(e) Needles must be single-use needles and sterilized before use.

(f) Sterilization must be conducted using steam heat or chemical vapor.

(g) All sterilization units must be operated according to the manufacturer's specifications.

(h) At least once a month, but not to exceed 30 days between tests, a spore test must be conducted on each sterilizer used to ensure proper functioning. If a positive spore test result is received, the sterilizer at issue may not be used until a negative result is obtained.

(i) All inks and other pigments used in a body art procedure must be specifically manufactured for tattoo procedures.

(j) Immediately before applying a tattoo, the ink needed must be transferred from the ink bottle and placed into single-use paper or plastic cups. Upon completion of the tattoo, the single-use cups and their contents must be discarded.

(k) All tables, chairs, furniture, or other procedure surfaces that may be exposed to blood or body fluids during the body art procedure must be cleanable and must be sanitized after each client with a liquid chemical germicide.

(l) Single-use towels or wipes must be provided to the client. These towels must be dispensed in a manner that precludes contamination and disposed of in a nonporous washable garbage receptacle with a foot-operated lid or with no lid and a removal liner.

(m) All bandages and surgical dressings used must be sterile or bulk-packaged clean and stored in a clean, closed nonporous container.

(n) All equipment and instruments must be maintained in good working order and in a clean and sanitary condition.

(o) All instruments and supplies must be stored clean and dry in covered containers.

(p) Single-use disposable barriers or a chemical germicide must be used on all equipment that cannot be sterilized as part of the procedure as required under this section including, but not limited to, spray bottles, procedure light fixture handles, and tattoo machines.

Subd. 3. **Standards for body art procedures.** (a) All body art procedures must comply with the health and safety standards in this subdivision.

(b) The skin area subject to a body art procedure must be thoroughly cleaned with soap and water, rinsed thoroughly, and swabbed with an antiseptic solution. Only single-use towels or wipes may be used to clean the skin.

(c) Whenever it is necessary to shave the skin, a new disposable razor or a stainless steel straight edge must be used. The disposable razor must be discarded after use. The stainless steel straight edge must be thoroughly washed to remove all organic matter and sterilized before use on another client.

(d) No body art procedure may be performed on any area of the skin where there is an evident infection, irritation, or open wound.

(e) Single-use nonabsorbent gloves of adequate size and quality to preserve dexterity must be used for touching clients, for handling sterile instruments, or for handling blood or body fluids. Nonlatex gloves must be used with clients or employees who request them or when petroleum products are used. Gloves must be changed if a glove becomes damaged or comes in contact with any nonclean surface or objects or with a third person. At a minimum, gloves must be discarded after the completion of a procedure on a client. Upon leaving the procedure area, hands and wrists must be washed before putting on a clean pair of gloves and after removing a pair of gloves.

Subd. 4. **Standards for technicians.** (a) Technicians must comply with the health and safety standards in this subdivision.

(b) Technicians must scrub their hands and wrists thoroughly before and after performing a body art procedure, after contact with the client receiving the procedure, and after contact with potentially contaminated materials.

(c) A technician may not smoke, eat, or drink while performing body art procedures.

(d) A technician may not perform a body art procedure if the technician has any open sores visible or in a location that may come in contact with the client.

Subd. 5. Contamination standards. (a) Infectious waste and sharps must be managed according to sections 116.76 to 116.83 and must be disposed of by an approved infectious waste hauler at a site permitted to accept the waste, according to Minnesota Rules, parts 7035.9100 to 7035.9150. Sharps ready for disposal must be disposed of in an approved sharps container.

(b) Contaminated waste that may release liquid blood or body fluids when compressed or that may release dried blood or body fluids when handled must be placed in an approved red bag that is marked with the international biohazard symbol.

(c) Contaminated waste that does not release liquid blood or body fluids when compressed or handled may be placed in a covered receptacle and disposed of through normal approved disposal methods.

(d) Storage of contaminated waste onsite must not exceed the period specified by Code of Federal Regulations, title 29, section 1910.1030.

#### Sec. 7. **[146B.07] PROFESSIONAL STANDARDS.**

Subdivision 1. Standard practice. (a) A technician shall require proof of age before performing any body art procedure on a client. Proof of age must be established by one of the following methods:

(1) a valid driver's license or identification card issued by the state of Minnesota or another state that includes a photograph and date of birth of the individual;

(2) a valid military identification card issued by the United States Department of Defense;

(3) a valid passport;

(4) a resident alien card; or

(5) a tribal identification card.

(b) Before performing any body art procedure, the technician must provide the client with a disclosure and authorization form that indicates whether the client has:

(1) diabetes;

(2) a history of hemophilia;

(3) a history of skin diseases, skin lesions, or skin sensitivities to soap or disinfectants;

(4) a history of epilepsy, seizures, fainting, or narcolepsy;

(5) any condition that requires the client to take medications such as anticoagulants that thin the blood or interfere with blood clotting; or

(6) any other information that would aid the technician in the body art procedure process evaluation.

(c) The form must include a statement informing the client that the technician shall not perform a body art procedure if the client fails to complete or sign the disclosure and

authorization form, and the technician may decline to perform a body art procedure if the client has any identified health conditions.

(d) The technician shall ask the client to sign and date the disclosure and authorization form confirming that the information listed on the form is accurate.

(e) Before performing any body art procedure, the technician shall offer and make available to the client personal draping, as appropriate.

Subd. 1a. **Prohibition.** (a) A technician may perform body piercings on an individual under the age of 18 if the individual's parent or legal guardian is present and a consent form and the authorization form under subdivision 1, paragraph (b) is signed by the parent or legal guardian in the presence of the technician, and the piercing is not prohibited under paragraph (c).

(b) No technician shall tattoo any individual under the age of 18 regardless of parental or guardian consent.

(c) No nipple or genital piercing, branding, scarification, suspension, subdermal implantation, microdermal, or tongue bifurcation shall be performed by any technician on any individual under the age of 18 regardless of parental or guardian consent.

(d) No technician shall perform body art procedures on any individual who appears to be under the influence of alcohol, controlled substances as defined in section 152.01, subdivision 4, or hazardous substances as defined in rules adopted under chapter 182.

(e) No technician shall perform body art procedures while under the influence of alcohol, controlled substances as defined under section 152.01, subdivision 4, or hazardous substances as defined in the rules adopted under chapter 182.

(f) No technician shall administer anesthetic injections or other medications.

Subd. 2. **Informed consent.** Before performing a body art procedure, the technician shall obtain from the client a signed and dated informed consent form. The consent form must disclose:

(1) that a tattoo is considered permanent and may only be removed with a surgical procedure and that any effective removal may leave scarring; or

(2) that body piercing may leave scarring.

Subd. 3. **Client record maintenance.** For each client, the body art establishment operator shall maintain proper records of each procedure. The records of the procedure must be kept for three years and must be available for inspection by the commissioner upon request. The record must include the following:

(1) the date of the procedure;

(2) the information on the required picture identification showing the name, age, and current address of the client;

(3) a copy of the authorization form signed and dated by the client required under subdivision 1, paragraph (b);

(4) a description of the body art procedure performed;

(5) the name and license number of the technician performing the procedure;

(6) a copy of the consent form required under subdivision 2; and

(7) if the client is under the age of 18 years, a copy of the consent form signed by the parent or legal guardian as required under subdivision 1a.

Subd. 4. **Aftercare.** A technician shall provide each client with verbal and written instructions for the care of the tattooed or pierced site upon the completion of the procedure. The written instructions must advise the client to consult a health care professional at the first sign of infection.

Subd. 5. **State, county, and municipal public health regulations.** An operator and technician shall comply with all applicable state, county, and municipal requirements regarding public health.

Subd. 6. **Notification.** The operator of the body art establishment shall immediately notify the commissioner and local health authority of any reports they receive of a potential bloodborne pathogen transmission.

**Sec. 8. [146B.08] INVESTIGATION PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.**

Subdivision 1. **Investigations of complaints.** The commissioner may initiate an investigation upon receiving a signed complaint or other signed written communication that alleges or implies that an individual or establishment has violated this chapter. According to section 214.13, subdivision 6, in the receipt, investigation, and hearing of a complaint that alleges or implies an individual or establishment has violated this chapter, the commissioner shall follow the procedures in section 214.10.

Subd. 2. **Rights of applicants and licensees.** The rights of an applicant denied licensure are stated in section 146B.03, subdivision 5. A licensee may not be subjected to disciplinary action under this section without first having an opportunity for a contested case hearing under chapter 14.

Subd. 3. **Grounds for disciplinary action by commissioner.** The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that a technician or an operator of an establishment has:

- (1) intentionally submitted false or misleading information to the commissioner;
- (2) failed, within 30 days, to provide information in response to a written request by the commissioner;
- (3) violated any provision of this chapter;
- (4) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;
- (5) aided or abetted another person in violating any provision of this chapter;
- (6) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline are the same or substantially equivalent to those under this chapter;
- (7) not cooperated with the commissioner in an investigation conducted according to subdivision 1;
- (8) advertised in a manner that is false or misleading;
- (9) engaged in conduct likely to deceive, defraud, or harm the public;

(10) demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(11) obtained money, property, or services from a client through the use of undue influence, harassment, duress, deception, or fraud;

(12) failed to refer a client to a health care professional for medical evaluation or care when appropriate; or

(13) been convicted of a felony-level criminal sexual conduct offense. "Conviction" means a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by a court.

Subd. 4. **Disciplinary actions.** If the commissioner finds that a technician or an operator of an establishment should be disciplined according to subdivision 3, the commissioner may take any one or more of the following actions:

(1) refuse to grant or renew licensure;

(2) suspend licensure for a period not exceeding one year;

(3) revoke licensure;

(4) take any reasonable lesser action against an individual upon proof that the individual has violated this chapter; or

(5) impose, for each violation, a civil penalty not exceeding \$10,000 that deprives the licensee of any economic advantage gained by the violation and that reimburses the department for costs of the investigation and proceedings resulting in disciplinary action, including the amount paid for services of the Office of Administrative Hearings, the amount paid for services of the Office of the Attorney General, attorney fees, court reporters, witnesses, reproduction of records, department staff time, and expenses incurred by department staff.

Subd. 5. **Consequences of disciplinary actions.** Upon the suspension or revocation of licensure, the technician or establishment shall cease to:

(1) perform body art procedures;

(2) use titles protected under this chapter; and

(3) represent to the public that the technician or establishment is licensed by the commissioner.

Subd. 6. **Reinstatement requirements after disciplinary action.** A technician who has had licensure suspended may petition on forms provided by the commissioner for reinstatement following the period of suspension specified by the commissioner. The requirements of section 146B.03 for renewing licensure must be met before licensure may be reinstated.

## Sec. 9. **[146B.09] COUNTY OR MUNICIPAL REGULATION.**

Nothing in this chapter preempts or supersedes any county or municipal ordinance relating to land use, building and construction requirements, nuisance control, or the licensing of commercial enterprises in general.

## Sec. 10. **[146B.10] FEES.**

Subdivision 1. **Biennial licensing fees.** (a) The fee for the initial technician licensure and biennial licensure renewal is \$100.

(b) The fee for temporary technician licensure is \$100.

(c) The fee for the temporary guest artist license is \$50.

(d) The fee for a dual body art technician license is \$100.

(e) The fee for a provisional establishment license is \$1,000.

(f) The fee for an establishment license is \$1,000.

(g) The fee for a temporary body art establishment permit is \$75.

(h) The commissioner shall prorate the initial two-year technician license fee and the initial three-year body art establishment license fee based on the number of months in the initial licensure period.

Subd. 2. **Penalty for late renewals.** The penalty fee for late submission for renewal applications is \$75.

Subd. 3. **Deposit.** Fees collected by the commissioner under this section must be deposited in the state government special revenue fund.

Sec. 11. **APPROPRIATIONS.**

\$190,000 is appropriated in fiscal year 2011 from the state government special revenue fund to the commissioner of health for the implementation of Minnesota Statutes, chapter 146B. Base funding shall be \$101,000 in fiscal year 2012 and \$65,000 in fiscal year 2013.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 11 are effective July 1, 2010.

Presented to the governor May 10, 2010

Signed by the governor May 13, 2010, 9:19 a.m.