

216-RICR-40-10-14

## TITLE 216 – DEPARTMENT OF HEALTH

### CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

#### SUBCHAPTER 10 – FACILITIES REGULATION

PART 14 – Registration of Body Piercing Technicians and Body Piercing Establishments

#### 14.1 Authority

These rules and regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 23-1-39, as amended, and are established for the purpose of adopting minimum requirements for the registration of body piercing technicians and body piercing establishments in this state.

#### 14.2 Incorporated Materials

These regulations hereby adopt and incorporate 29 C.F.R. § 1910.1030 (2017) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

#### 14.3 Definitions

- A. Wherever used in these rules and regulations, the terms listed below shall be construed as follows:
1. “Act” means R.I. Gen. Laws § [23-1-39](#) entitled “Tattooing/and/or Body Piercing.”
  2. “Aseptic technique” means the practice of preventing the transmission of infectious agents into the human body by using standard aseptic procedures.
  3. “Body piercing” means the act of penetrating the skin, excluding the earlobes, to make, generally permanent in nature, a hole or mark.
  4. “Body piercing establishment” means any establishment operated by any person for the purpose of offering or conducting body piercing.

5. "Body piercing technician" means an individual who is registered in this state to practice body piercing in accordance with the requirements herein.
6. "Communicable disease" means any disease caused by an infectious agent which may be transmitted directly or indirectly from one individual to another.
7. "Director" means the Director of the Rhode Island Department of Health.
8. "Division" means the Division of Professional Regulation at the Rhode Island Department of Health.
9. "Instruments" means body piercing equipment. Such equipment includes, but is not limited to, piercing needles, forceps, hemostats, tweezers, or other implements used to pierce, puncture, or be inserted into any part of the human body for the intended purpose of making a permanent hole. Such equipment also includes studs, hoops, rings or other decorative jewelry, materials or apparatuses inserted into any part of the human body for the intended purpose of placement in the hole resulting from piercing.
10. "Jewelry" means any personal ornament inserted into a pierced area.
11. "Needle" means the implement used to pierce or puncture a hole in any part of the human body.
12. "Permanent hole" means a hole produced by piercing or puncturing any part of the human body, with instruments intended to leave an opening in body tissue(s) into which an appropriate device or apparatus may be inserted. Permanent hole would include any body part newly pierced or punctured which is undergoing a healing process; and, any piercing whether or not removal of a device or apparatus from the perforation would result in fusing or healing of the tissue or skin structures.
13. "Person" means any individual, trust or estate, partnership, corporation (including but not limited to associations and joint stock companies), state, or political subdivision or instrumentality of the state.
14. "Registration agency" means the Rhode Island Department of Health. "Registration agency" and "licensing agency" are synonymous.
15. "Sharps" means any object that can penetrate the skin, including but not limited to, needles, scalpel blades, lancets, glass tubes that could be broken during handling that have been removed from their original sterile containers.

16. “Sterilization” means the use of procedures that destroy all microbial life, including viruses, on the equipment or device.
17. “Universal precautions” means a set of guidelines and controls, published by the Centers for Disease Control (CDC) that outline certain practices that health care workers should employ in order to prevent parenteral, mucous-membrane, and no intact skin exposure to blood borne pathogens. The method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood borne pathogens. Precautions include: hand washing, gloving, personal protective equipment, injury prevention, proper handling and disposal of needles and other sharp instruments and blood and body fluid contaminated products.

## **14.4 Registration Requirements for Body Piercing Technicians**

### **14.4.1 Registration Requirements**

Pursuant R.I. Gen. Laws § 23-1-39 of the Act, no person shall engage in the practice of body piercing or hold himself/herself as a body piercing technician in this state unless he/she is registered in this state under the statutory and regulatory provisions herein. Provided, that physicians duly licensed to practice medicine in the state of Rhode Island under the provisions of [R.I. Gen. Laws Chapter 5-37](#) shall be exempt from this registration requirement. However, a physician engaged in the practice of body piercing in his/her private office shall be required to register the site as a body piercing establishment and meet the requirements of § 14.5 of this Part. Nothing in these regulations shall be construed to alter the scope of practice of any licensed health care practitioner otherwise defined by rule or statute.

### **14.4.2 Qualifications**

- A. Any applicant seeking registration in this state must:
  1. Be over 18 years of age;
  2. Be of good moral character; and
  3. Demonstrate knowledge of body piercing techniques or procedures, based upon the requirements of § of this Part.
- B. Applicants who have not satisfactorily met the registration requirements stated in § ) shall be given two (2) additional opportunities to demonstrate body piercing technique. Failure to meet all technique requirements will result in denial of registration.

### **14.4.3 Application and Registration Fee**

- A. Application for registration shall be made on forms provided by the Division of Professional Regulation, Rhode Island Department of Health, which shall be completed and submitted to the Division. Such application shall be accompanied by the following documents:
1. For US citizens: a certified copy of birth certificate;
  2. For non-US citizens: proof of lawful entry into the United States;
  3. A registration fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health, Part [10-05-2](#) of this Title; and
  4. A recent identification photograph of the applicant, head and shoulders, front view, approximately 2x3 inches in size.

### **14.4.4 Issuance & Renewal of Registration & Fee**

- A. The Director shall issue to applicants who have satisfactorily met the application and qualification requirements herein a registration to practice body piercing in the state. This registration, unless sooner suspended or revoked, shall expire on December 31st of each year.
- B. On or before the first day of November in each year, an application for renewal of registration shall be mailed to every person to whom a registration has been issued during the current year.
- C. Every person so registered who desires to renew his/her registration shall file with the Division:
1. Such renewal application, completed and signed by the applicant; and,
  2. The fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health, Part [10-05-2](#) of this Title.
- D. Lapsed Registration
1. Any registrant who allows the registration to lapse for less than two (2) years may have same reinstated by submitting to the registration agency the fee and application as required in § 14.4.4(C) of this Part.

2. Any registrant whose registration lapses for two (2) or more years shall be required to submit to the demonstration of aseptic body piercing technique described in § 14.4.2(A) of this Part.

#### **14.4.5 Body Piercing Practice**

- A. A registered body piercing technician shall maintain sanitary and safe practice in accordance with prevailing standards and the regulations herein.
- B. Body Piercing Procedures. A body piercing technician shall conduct his/her body piercing practice so as to prevent the transmission of communicable diseases from client to client, technician to client, and client to technician. Body piercing technicians shall maintain at least the following minimum standards in the practice of body piercing:
  1. Immediately before and after body piercing, the body piercing technician shall advise the client – both verbally and in writing – on the proper care of the body piercing site and shall instruct the client to consult a physician at the first sign of infection (such as excessive pain, redness, swelling, or discharge) in the area of the body piercing.
    - a. A signed copy of the aftercare sheet shall be retained by the body piercing technician.
  2. The area of the body to be pierced, and all parts of the body which are visible, shall be examined for signs of intravenous drug use, open sores, lesions, oozing wounds, and skin diseases. If such are found, or suspected, the person shall not be pierced.
  3. At a minimum, the skin shall be prepared first by thoroughly cleansing it with an antiseptic soap or seventy percent (70%) isopropyl alcohol. Following this cleaning, a betadine solution or surgical scrub (i.e., hibiclens for the iodine sensitive) shall be applied to the skin using a sterile swab. Surface contact time shall be a minimum of one (1) minute. Following the drying time, the residue shall be removed by utilizing a sterile swab in a circular motion beginning at the piercing site. Following the removal of any residue, the area of the skin that is to be pierced shall be marked by a single use sterile skin scribe. After the piercing, the skin shall be thoroughly cleaned with an antiseptic solution.
  4. Only jewelry that is made of surgical stainless steel of at least 316L grade quality, solid gold of at least 14K weight, niobium, titanium, platinum, and/or only rings with rounded edges, shall be used in body piercing. Invoices from jewelry manufacturers and/or distributors shall be available for inspection upon request.

5. Needles and other sharps shall be immediately deposited into a puncture-resistant infectious waste sharps container. Needles shall not be reused.
6. All needles and any blood soaked material shall be handled and discarded according to the Department of Environmental Management's Medical Waste Regulations, [250-RICR-140-15-1](#). All other material shall be discarded appropriately.
7. Each body piercing technician shall wear a clean outer garment. If the garment is visibly contaminated with blood, it shall be changed between clients.
8. Before working on each client, each body piercing technician shall clean his/her own fingernails with a brush and shall thoroughly wash and scrub hands with hot running water, using germicidal soap from a dispenser. Hands must also be washed after each rest room use, before putting on gloves and after taking off gloves.
9. Non-sterile gloves may be used for body piercing preparations. Prior to commencing the body piercing, the body piercing technician shall put on sterile gloves, which shall be used for a single body piercing procedure only. Sterile gloves shall be removed and discarded in accordance with the requirements of the Department of Environmental Management's Medical Waste Regulations, [250-RICR-140-15-1](#).
10. Technicians shall wear eye goggles, shields, and/or a mask if blood or saliva spattering is likely to occur while providing services.
11. All work surfaces and non-autoclaved equipment used in the body piercing process shall be cleaned with an EPA-approved bactericidal, virucidal, fungicidal, tuberculocidal surface disinfectant/decontaminant cleaner between clients. Gloves shall be used in the cleaning process. Subsequently, the body piercing technician shall wash his/her hands with a germicidal soap after cleaning work surfaces and equipment.

C. Body Piercing Equipment:

1. All tools used in the piercing process (e.g., ring openers/closers, forceps, clamps, needle pushers, receiver tubes) shall be cleaned utilizing an ultrasonic cleaner. Immersion time for all equipment shall be five (5) minutes. Ultrasonic cleaning tank detergent shall be changed daily. An ultrasonic cleaning tank shall be scrubbed thoroughly with isopropyl alcohol between detergent changes.

2. Body piercing technicians shall properly sterilize all instruments that pierce the skin, that directly aid in piercing the skin, or that may come in contact with instruments that pierce the skin, through such means as storage in trays with other instruments or contact with forceps, in accordance with the sterilization procedures described below.
3. Body piercing technicians shall disinfect all equipment indirectly used in body piercing, including any beds, tables, headrests, armrests, legrests, or handrails.
4. Storage cabinets shall be maintained in a sanitary condition and all instruments, jewelry, and other equipment, when not in use, shall be stored in an orderly manner.

D. Sterilization of Instruments and/or Equipment:

1. Operational sterilizers shall be available in each body piercing establishment. All instruments shall be sterilized after each use by autoclaving under fifteen (15) pounds of pressure for twenty (20) minutes. Autoclave temperature shall not be less than two hundred seventy-three (273°) degrees Fahrenheit or one hundred thirty-six (136°) degrees Celsius, or according to manufacturer's specifications.
2. Autoclave units shall be checked monthly, using a standard spore test, with results maintained on file for inspection. Autoclave units shall be maintained in accordance with manufacturer's specifications. Records of said monthly checks shall be maintained for a minimum of two (2) years.
  - a. A log book shall be maintained for the results of said monthly inspections and shall include no less than the following items: date of inspection, results of inspection, and the signature of the body piercing technician who conducted the inspection.
3. The sterilizing date shall be noted, and evidence of sterilization shall be demonstrated by color indicator or equivalent. Packs shall be used within thirty (30) days or resterilized.

E. Restrictions:

1. R.I. Gen. Laws § [23-1-39](#) prohibits the body piercing of minors (persons under the age of eighteen (18)) in this state except if the minor is accompanied by his/her parent or guardian, and said parent or guardian gives written consent to the body piercing. Proper photographic identification of the parent or legal guardian shall be required (e.g., driver's license).

#### **14.4.6 Denial, Suspension or Revocation of Registration**

- A. The Director is authorized to deny an application, or revoke a registration for cause (e.g., conviction of crimes) or for failure of an applicant or registrant to comply with the provisions of these rules and regulations.
- B. Whenever an action shall be proposed to deny an application, or suspend a registration, the Director shall notify the person by registered mail setting forth the reason(s) for the proposed action.
- C. The applicant or registrant shall be given an opportunity for a prompt and fair hearing in accordance with the provisions of R.I. Gen. Laws Chapter [42-35](#) as amended, and Practices and Procedures Before the Rhode Island Department of Health, Part [10-05-4](#) of this Title, and Access to Public Records, Part [10-05-1](#) of this Title.
- D. If it is determined that a person is violating any provisions of the rules and regulations herein, the Director may issue an order to ensure compliance in accordance with the provisions of R.I. Gen. Laws §§ [23-1-20](#) through [23-1-25](#).

### **14.5 Registration Requirements for Body Piercing Establishments**

#### **14.5.1 Administration**

The Director shall be responsible for the administrative functions required to implement the provisions of R.I. Gen. Laws § 23-1-39 and the rules and regulations herein as they apply to the registering of body piercing establishments.

#### **14.5.2 Registration Requirements**

- A. No person, acting severally or jointly with any other person, shall conduct, maintain, or operate a body piercing establishment in the state without a registration issued by the registration agency.
- B. No person, firm, partnership or corporation shall describe its services in any manner under the title “Body Piercing Establishment” unless such services as defined herein are performed in an establishment that is registered with the Department of Health in accordance with the provisions of the rules and regulations for registering of body piercing establishments.

#### **14.5.3 Application for Registration and Fee**

- A. Application for a registration to conduct, maintain, or operate a body piercing establishment shall be made in writing on forms provided by the Division of



Facilities Regulation and shall be submitted at least ninety (90) days prior to the opening of the body piercing establishment.

- B. The application for registration shall include:
1. the address of the place of business;
  2. the address of the owner and/or manager;
  3. the name of the manager (and if a physician's office, the name of the physician) who shall be registered with the Rhode Island Department of Health;
  4. written documentation that the owner and/or manager is at least eighteen (18) years of age;
  5. criminal convictions of the corporation, owner and/or manager, if any, except minor traffic violations;
  6. a list of all owners and partners;
  7. a list of owners holding fifty percent (50%) or more stock;
  8. the fee as set forth in Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health, Part [10-05-2](#) of this Title;
  9. a list of all equipment;
  10. a floor plan of the body piercing establishment;
  11. appropriate certificates of compliance with all applicable local and state codes; and
  12. written operating policies and procedures pertaining to such matters as hours of business operation, nature of services, sanitation, and safety procedures established for the protection of clients and employees.

#### **14.5.4 Issuance & Renewal of Registration and Fee**

- A. Upon approval, the Division of Facilities Regulation shall issue a registration. Said registration, unless sooner suspended or revoked, shall expire by limitation on March 31st following its issuance and may be renewed from year to year after inspection and/or approval by the registration agency, provided the applicant meets the appropriate statutory and regulatory requirements herein.

- B. A registration shall be issued only to a specific applicant for any licensed location, and shall not be transferable.
- C. The annual registration renewal fee as set forth in Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health, Part [10-05-2](#) of this Title, shall accompany the application for the annual license renewal.
- D. Any registrant who allows the registration to lapse may have the same reinstated by submitting an application, the accompanying documents, the fee as required in § 14.5.4 of this Part, and other such documentation as deemed appropriate.

#### **14.5.5 Change of Ownership, Operation and/or Location**

- A. When a change of ownership, operation, location, or discontinuation of business of a body piercing establishment is contemplated, the owner and/or manager shall notify the registration agency in writing prior to the proposed action.
- B. When there is a change in ownership, or in the operation or control of a registered body piercing establishment, the registration shall immediately become void and shall be returned to the registration agency. However, the registration agency reserves the right to extend the expiration date of such registration, allowing the facility to operate under the same conditions which applied to the prior registrant for such time as shall be required for the processing of a new application, but not to exceed thirty (30) days.

#### **14.5.6 Inspections**

- A. Duly authorized representatives of the Director shall, at all reasonable times, have the authority to enter upon any and all parts of the premises on which any body piercing establishment is located (and of the premises appurtenant thereto) to make any investigation or inspection to determine conformity with the statutory and regulatory provisions herein.
- B. Refusal to permit inspection or investigation shall constitute valid grounds for registration denial or revocation.
- C. Applicants who have not satisfactorily met the requirements herein related to the inspection described above will be given one (1) additional facility inspection. Failure to meet all requirements will result in denial of registration.

#### **14.5.7 General Operational Requirements**

- A. Personnel

1. Each facility shall submit to the registration agency the name of the owner and/or manager who shall be responsible for:
  - a. The management and control of the operation and the maintenance of the facility;
  - b. The facility's conformity with state and local laws and regulations pertaining to fire, safety, building sanitation, personnel and other relevant statutory and regulatory provisions; and
  - c. The establishment of policies and procedures, including but not limited to, the practice of body piercing, sanitation protocols, infection control, universal precautions, the nature of services provided and other such policies and procedures as may be required.
2. Persons engaged in the practice of body piercing shall comply with the Occupational Safety and Health Administration's (OSHA) Blood Borne Pathogen Standards of 29 C.F.R. § 1910.1030 (2017), incorporated in § 14.2 of this Part, in order to protect themselves (and any employees) against occupational exposure to bloodborne pathogens. Compliance shall include, but not be limited to:
  - a. a written exposure control plan;
  - b. staff training;
  - c. engineering and work practice controls;
  - d. adoption of universal precautions;
  - e. personal protective equipment;
  - f. hepatitis b vaccinations; and
  - g. a protocol for evaluation in the event that an exposure occurs.
3. Only individuals who hold current Rhode Island registration as a body piercing technician or a duly licensed physician shall practice body piercing and/or use the title "body piercing technician" in accordance with the regulatory provisions of the rules and regulations herein.
4. If the owner and/or manager of a facility is not a registered body piercing technician, a registered body piercing technician shall be designated as the agent of the manager and/or owner, responsible for the direct supervision of all personnel and services related to the practice of body

piercing. The name of said designated individual shall be submitted to the registration agency.

B. Environment & Maintenance

1. Each body piercing establishment shall be required to meet the following provisions:
  - a. The facility shall be maintained in a sanitary condition free from hazards.
  - b. All walls and floors shall be smooth and easily cleanable. There shall be no carpeting in the body piercing area. Walls and ceilings are to be painted in a light color. Walls and floors shall be kept clean and in good repair, free from dust and debris. Floors or walls shall not be swept or cleaned while body piercing is being performed.
  - c. Adequate light and ventilation shall be provided.
  - d. Each body piercing establishment shall contain a hand sink in the body piercing area for the exclusive use of the body piercing technician. The sink shall have hot and cold running water. At the sink, there shall also be available: a soap dispenser, disposable towels and refuse containers.
    - (1) In facilities in which there are multiple body piercing workstations, there shall be a minimum of one sink per every two workstations. Each sink shall meet the requirements of § 14.5.7(B)(1)(d) of this Part.
  - e. Toilets and hand-washing facilities shall be provided in convenient locations in conformity with the Rhode Island State Building Code of R.I. Gen. Laws Chapter [23-27.3](#).
  - f. All work surfaces shall be smooth, non-porous and easily cleanable.
  - g. The facility shall be arranged so that work areas are separated from waiting customers by providing a separate room for body piercing or by providing at least ten (10) feet between work areas and partitioning the areas with panels (or other barriers) at least six (6) feet high. The panel may be constructed of solid opaque plastic or similar material.

- h. Equipment and supplies shall be properly stored in designated storage cabinets.
- i. No smoking, eating, or drinking shall be permitted in the body piercing area.

C. Waste Disposal

- 1. Medical waste shall be managed in accordance with the Department of Environmental Management's Medical Waste Regulations, [250-RICR-140-15-1](#).

#### **14.5.8 Retention of Records**

- A. The owner of a body piercing establishment shall maintain proper records for each client. A record of each client shall include:
  - 1. the date on which he/she was body pierced;
  - 2. the signed aftercare sheet;
  - 3. his/her name, address, telephone number and age;
    - a. Photo identification as proof of age (e.g., driver's license, military identification), a copy of which shall be maintained for each client;
  - 4. if the client is a minor, a copy of the written consent from the parent/guardian and a copy of the parent/guardian's proper photo identification;
  - 5. the location where the body was pierced; and
  - 6. the name of the body piercing technician.
- B. These records shall be permanently entered in a book with pre-numbered pages, kept solely for this purpose. Records that cannot be physically stored in this pre-numbered book (e.g., copies of proof of age as required in § 14.5.8(A)(3)(a) may be stored elsewhere in the facility. These records shall be available for inspection by the Department of Health. These records shall be maintained for a minimum of five (5) years after the date on which the client was body pierced.

#### **14.5.9 Denial, Suspension or Revocation of Registration**

- A. The Director is authorized to deny an application, revoke or suspend a registration for failure of an applicant or registrant to comply with the provisions of the rules and regulations herein.

- B. Whenever an action shall be proposed to deny an application, revoke or suspend a registration, the Director shall notify the person by certified mail, setting forth the reason(s) for the proposed action.
- C. The applicant or registrant shall be given an opportunity for a prompt and fair hearing in accordance with the provisions of R.I. Gen. Laws Chapter [42-35](#), and the Practices and Procedures Before the Rhode Island Department of Health, Part [10-05-4](#) of this Title, and Access to Public Records, Part [10-05-1](#) of this Title.
- D. If it is determined that a person is violating any provisions of the rules and regulations herein, the Director may issue an order to secure compliance in accordance with the provisions of R.I. Gen. Laws §§ [23-1-20](#) through [23-1-25](#).

#### **14.5.10 Deficiencies and Plans of Correction**

- A. The licensing agency shall notify the governing body or other legal authority of a facility of violations of these rules and regulations through a notice of deficiencies which shall be forwarded to the facility within fifteen (15) days of inspection of the facility. If the Director determines that immediate action is necessary to protect the health, welfare, or safety of the public, she/he may issue an immediate compliance order in accordance with R.I. Gen. Laws § [23-1-21](#).
- B. A facility that has received a notice of deficiencies shall submit a plan of correction to the licensing agency within fifteen (15) days of the date of the notice of deficiencies. The plan of correction shall detail any requests for variances as well as document the reasons therefore.
- C. The licensing agency shall be required to approve or reject the plan of correction submitted by a facility in accordance with § 14.5.10(B) of this Part within fifteen (15) days of receipt of the plan of correction.
- D. If the licensing agency rejects the plan of correction, or if the facility does not provide a plan of correction within the fifteen (15) day period stipulated in § 14.5.10(B) of this Part, or if a facility whose plan of correction has been approved by the licensing agency fails to execute its plan within a reasonable time, the licensing agency may invoke the sanctions referenced in § 14.5.9 of this Part.
- E. If the facility is aggrieved by the sanctions of the licensing agency, the facility may appeal the decision and request a hearing in accordance with the provisions of R.I. Gen. Laws Chapter [42-35](#), and Practices and Procedures Before the Rhode Island Department of Health, Part [10-05-4](#) of this Title, and Access to Public Records, Part [10-05-1](#) of this Title.

#### **14.5.11 Variance Procedures**

- A. The licensing agency may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health and/or health and safety of clients.
- B. A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made.
  - 1. Upon the filing of each request for variance with the licensing agency, and within a reasonable time thereafter, the licensing agency shall notify the applicant by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the facility appeals the denial and in accordance with the provisions of § 14.5.10 of this Part.

#### **14.5.12 Severability**

If any provision of these rules and regulations or the application thereof to any individual, facility or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end, the provisions of the regulations are declared to be severable.

**216-RICR-40-10-14**

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**PART 14 - REGISTRATION OF BODY PIERCING TECHNICIANS AND BODY PIERCING ESTABLISHMENTS (216-RICR-40-10-14)**

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