



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING

GRETCHEN WHITMER
GOVERNOR

ELIZABETH HERTEL
DIRECTOR

May 1, 2025

MOAHR-Administrative Rules Division
Michigan Office of Administrative Hearings and Rules
611 W. Ottawa Street
Lansing, Michigan 48909

VIA EMAIL: MOAHR-Rules@michigan.gov

Subject: Review of Proposed Changed Rules; Statement of Determination-Body Art
Facilities, 2023-59 HS

Dear MOAHR-Administrative Rules Division:

On March 13, 2025, the MOAHR-Administrative Rules Division (ARD) submitted the MDHHS Body Art Facilities rules to JCAR. On March 15, 2025, this Regulatory Affairs Officer was notified by the program area that there was an error in the final submission of the rules, specifically;

Mich Admin Code R 333.13113(15) was inadvertently submitted without striking the word "only". The subrule reads as follows:

(15) If only rotary pen tattoo machines are used, only machines that utilize presterilized, single-use needle cartridge systems with appropriate backflow prevention devices, such as membranes or barriers, or those equipped with detachable, single-use disposable sterile combo couplers and detachable, single-use disposable casings or casings that can be cleaned and sterilized, are allowed for use.

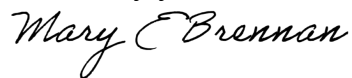
The Body Art Division explained that leaving in the word "only" would be very difficult to uphold as it is written. If a facility used another device such as a coil machine, then this rule would not apply to any of its rotary pens and that the correction is needed to prevent infection in these facilities.

There were two public comments on this issue. The comment striking "only" was inadvertently left off the comments and was not changed (See attached comments from Angela Parsons, Washtenaw County Health Department). Given the chance of increased infections to Michigan citizens if this rule is not amended, it is imperative that the rule be updated to strike "only" from the language.

On March 20, 2025, JCAR granted permission to DHHS to withdraw the rules. DHHS is now resubmitting the correct rules for review. The striking/removal of the word “only” will not change the regulatory impact statement as the change will not have an impact on small businesses and will not create further burden to the businesses in complying with the rules.

Please review the resubmitted rules and provide a determination to MDHHS at your earliest convenience. As always, you may contact me for any questions or concerns.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary E. Brennan".

Mary E. Brennan
Regulatory Affairs Officer-MDHHS



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

May 1, 2025

Sent Via Email

Mary E. Brennan
Regulatory Affairs Officer
Michigan Department of Health and Human Services

Ms. Mary Brennan:

On March 20, 2025, the Department of Health and Human Services (DHHS) submitted a Request to Withdraw with Permission the rule set entitled "Body Art Facilities" (2023-59 HS). The Joint Committee on Administrative Rules (JCAR) granted DHHS' request on April 8, 2025.

Pursuant to section 45c(3) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245c, MOAHR reviewed the rules as changed and has determined that the regulatory impact or the impact on small businesses of the rules as changed would not be more burdensome than the regulatory impact or the impact on small businesses of the rule as originally proposed. Therefore, a second public hearing is not required.

The change to the "Body Art Facilities" rule set updates R 333.13113(15) to strike the word "only" from the beginning of the rule. There was one public comment requesting this change and the change was inadvertently not incorporated into the rule set prior to submitting the rules to JCAR. MOAHR has determined that the regulatory impact and the impact on small businesses would not be more burdensome, as this change will not create a burden on small businesses and only clarifies the requirements of using a rotary pen tattoo machine, which will protect the health, safety, and welfare of the citizens of Michigan.

Sincerely,

Ashlee N. Lynn
State Administrative Manager 15, Administrative Rules Division
Michigan Office of Administrative Hearings and Rules

cc: Suzanne Sonneborn, Executive Director, MOAHR

Public Comment-Body Art, 2023-59 HS				
Name and Organization of Person Providing Comment	Written or Public Hearing	Rule Number	Comment	DHHS Response
Harlequin Tattoo, Hamtramck, MI	Written	General	I have read the proposed changes however, everything look the same. What is actually changing? Thank you	DHHS responded to organization. DHHS will send out a final document to all stakeholders with the major changes.
Dawn Smith, Dawn Smith Studios	Written	R 333.13106 R 333.13109 R 333.13113	I think it's important to note that given the nature of our intricate work it is important that the health department agents respect clients during their procedure by not interrupting the procedure itself. It puts the client at greater risk for healing complications when stopping for long periods to address inspections. It causes more undue pain and makes for a stressful experience for clients who are there for a service that they are paying for. If agents need to see procedures being done they should come in and quietly observe and then schedule time for the inspection when the procedure is done or on a different day. You wouldn't barge into a surgical suit and ask the surgeon to stop and show you his paperwork. Also we have no control over what a client takes or puts on his skin before he comes through our doors. So if a client puts a numbing cream on and then goes to the bathroom and wipes it off before we start a procedure there is nothing we can do about	RE Inspections. This is in the law MCL333.13105(a)1: "An inspection of a body art facility under this part may be announced or unannounced" RE: Numbing creams/topical creams-These products change the texture of the skin and the absorption of ink/pigment. Any experienced body art technician should be easily able to identify skin that has be affected by these products.

Beth, Black Ball Tattoo, Midland,	Written	R 333.13109(5) and (7)	1. After reviewing the purposed Promulgation Update for Body Art Facilities myself and my staff have voiced concerns within section 3; 5. (5) Body art technicians shall not perform body art procedures on skin or mucosal surfaces that have been affected by any topical anesthetic, external analgesic, or another product that contains an anesthetic active ingredient, unless the product, dosage, and directions for use are appropriately prescribed by a licensed physician for use before or during body art procedures. Documentation of the prescription must be made part of the client record. Currently we use over an over the counter product , Bactine to asist with the tattoo process. We have found that the small amount of lidocain allows the client to feel relief from the process when long sessions are required. It also asists in lessening the	RE: Topical creams/numbing creams. These are drug products. The FDA has not approved any numbing agent, including Bactine, for use in body art procedures. Any use of these products is considered off-label, which requires a prescription. Occupational use of these products on a client to prevent or treat pain is defined as the practice of medicine (MCL 333.17001). RE: Nails-recommend changing to: "Maintain fingernails in a manner to allow thorough cleaning and to prevent glove tears."
Courtney Kryda, Organization Unknown	Written	R 333.13106 R 333.13109 R 333.13113	1. was made aware of a new law that may pass where a health inspection may occur while a tattoo is in session. I think, in my whole hearted opinion, as a heavily tattooed person, that an inspection needs to be scheduled and not on a whim. If I were getting tattooed and have to wait an hour for an inspection to occur, going back after that hour would be more painful as that area would swell after an hour. At this of point, I would want to leave and go home. If you had a doctors appointment or a surgery and someone had to complete a spur of the moment inspection, with you laying on the operating table-how would you feel about that?	RE: Inspections. This is in the law MCL333.13105(a)1: "An inspection of a body art facility under this part may be announced or unannounced" RE:: numbing cream. FDA, DermaNumb Warning letter, December 5, 2017: "due to the nature of the injury to the skin caused during the tattooing procedure, use of lidocaine for this indication ... raises safety concerns relating to the potential for adverse events due to the systemic absorption of the active ingredient

Megan Davis, Electric Love Tattoo, Pontiac	Written	R 333.13106 R 333.13109 R 333.13113	I'm concerned by these rules of having nails and use of topical numbing cream- I feel like this begins to infringe on the autonomy of artists and clients. I've spent many years growing my nails beautifully and do not want to cut them. I have no issues with gloves or cleanliness due to having nails. I scrub them multiple times daily with nail scrubber brush and antibacterial soap at work before between and after appointments Numbing creams- I feel it would be less invasive on personal choice if we posted in the shop FDA approved and banned creams that can or can't be used as well as adding to the consent form a waver for using such products listing the product information signed by client - there are over the counter safe basic creams that do not exceed FDA recommend amount of lidocaine numbing agents, that do not require a prescription. Plus we cannot tell if clients come in and have applied something and removed it prior to appointment. Also very irritating having interruptions during business hours for inspections at	RE: Nails-Suggested change: Maintain fingernails in a manner to allow thorough cleaning and to prevent glove tears." RE:Numbing Cream- No over-the-counter product containing Lidocaine has been approved by the FDA for tattoos or any other body art procedure. RE: Inspections- This is in the law MCL333.13105(a)1: "An inspection of a body art facility under this part may be announced or unannounced"
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Shanika Ingle, Beauty Concepts PMU LLC.	Written	R 333.13109 R 333.13113	I have a comment on the proposed rules and the one that I would like to see some reform or flexibility is the use of topical numbing creams. I do permanent cosmetics that includes Eyeliner, Lip blushing and Microblading/Nano Brows. I've been in business for 7 years and i have never had issues with the topical numbing creams I use and given the sensitive areas I do the tattooing, most of my clients prefer to have the numbing agent to help, even if its 5% lidocaine. I understand the concern for the quality and origins of numbing creams and that people should not be able to order random creams off the internet from sketchy sites etc but with reputable sources I believe numbing creams to be one of the most important steps in my process. Clients are much happier with how comfortable they can be for the 2-3 hours I'm working on them. I would like to see that in the Consent/Liability forms that we are required to have signed that we acknowledge the concerns with OUR personal numbing	The FDA has not approved any numbing agent for use in body art procedures. Any use of these products is considered off-label, which requires a prescription. Occupational use of these products on a client to prevent or treat pain is defined as the practice of medicine (MCL 333.17001). The maximum concentration of lidocaine for a drug product to be considered nonprescription or OTC is 4%.
Dave Edwards, Onyx Tattoo	Written	R 333.13109 R 333.13113 R 333.13117	I would like to see the topical anesthetic removed from these rules. If a client wants to use it on their own then they should be able to. They are adults. And can buy over the counter. Why the need for a doctor's approval. Make a better decision on which ones are ok to use. And have a release form. I have had many clients do this with great results. Also been in this business over 25 years and doing bi weekly spore tests is overkill as long as I have been doing this I have never had a negative test. Also it would be great to see rules that are tougher on out of the house tattooers. And make it harder to buy tattoo kits. As long as I have been apart of the state stepping in. It's always making it hard on shops. But the tattoo at home guy and party's. Seem to skate through	Topical Creams- The State of Michigan does not have the authority to approve OTC drug products for uses that are not approved by the FDA. Spore Testing-The proposed requirement for spore testing is weekly, which is the current minimum standard per ANSI/AAMI ST79:2017. The CDC also recommends weekly spore testing for all sterilizers. Tattoo kits-MDHHS does not have the authority to regulate businesses who sell tattoo kits. Per MCL 333.13104, all body art procedures must be performed at a licensed body art facility. Artists and others need to file a complaint with MDHHS or the local health department for these home tattooing/tattoo parties

Hannah Brown, Organization Unknown	Written	R 333.13109 R 333.13113	I would like to add a comment, or complaint rather, to the law R.333.13109 section 5) no use of topical anesthetics unless prescribed dosage given by doctor. I have been told by several doctors and medics that the topical anesthetics that I have found to be available are safe, and efficient. Also, they are over the counter products, not medical grade, and come with instructions, so as long as they are followed, they are generally safe. Adverse reactions can happen from any item we use on the skin, as such with anything you can use on the skin from a store. For example, green soap, microbial soaps, and castile soaps can cause burns and rashes if not diluted. Each of these soaps are not prescribed by doctors, but are involved with prep of the clients skin and our skin, and only directions off the bottles are followed. Also, I have a couple clients that were suggested to use numbing creams by their doctors, to aid in keeping their blood pressure down, as they had issues with blood pressure, but were given the OK to have tattoos done. When explained from a	RE: Topical anesthetics. There is no definition for “medical grade”. There are drugs that the FDA has classified as “prescription only” or “nonprescription” (over-the-counter). None of the nonprescription or OTC products have been approved for use in any body art procedure; therefore, their use is considered “off-label”, which then requires a prescription for legal use. If the client is already seeking medical advise about their medical conditions and are discussing numbing creams, it should be relatively easy to get a prescription from their doctor. RE: Soaps-Soaps are not a drug product and not intended to change the structure of the skin.
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Lisa Stevens, Ink'd Solutions	Written	R 333.13109 R 333.13113	Hi, I have read over the updated proposed rules for Body Art and the only thing that I would like to comment on is part 3 #5 where it says that the use of topical anesthetic can't be used. As a permanent makeup artist, one of my biggest concerns is the comfort of my client. Microblading, permanent eyeliner, and lip blushing can be very painful. I use an over the counter numbing cream to help keep my clients comfortable during the procedure. I go over what I use and the ingredients in the cream and even have it listed in my paperwork that they have to sign before the procedure. I believe that if we are unable to use a numbing cream to keep that clients from feeling too much pain it will kill the permanent makeup industry in Michigan and clients will take their business to other states or even to Canada where they can be numbed before the procedure. Thank you for letting me share my concerns.	The FDA has not approved any numbing agent for use in body art procedures. Any use of these products is considered off-label, which requires a prescription. Occupational use of these products on a client to prevent or treat pain is defined as the practice of medicine (MCL 333.17001).
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Leif Kolt, Black Candle Tattoo Co, Traverse City+17:48	Written	R 333.13109 R 333.13110	In general, I applaud the overhaul of Michigan's body art code. It's well overdue, and not only does the new code address some of the glaring holes in the current regulations, but also makes common sense adjustments to certain parts of the code that didn't actually result in increased safety. That being said, I would like to submit the following points for your consideration... 1. First off, and in my opinion most importantly, are the regulations regarding the tattooing of a minor. Unless I'm missing something, the proposed body art code does not set a minimum age for getting a body art procedure. Part of this is because of how the code lumps all body art together, as opposed to setting different standards between piercing, tattooing, and branding or scarification procedures. While it does set guidelines around the documentation needed in order to perform procedures, as well as limiting procedures on the private areas of a minor, it still leaves a large gray area around the limits of what constitutes an eligible minor, consent, and how body	RE: Minor procedures. This is defined in the law (MCL 333.13102). Body art facilities are allowed to set their own minimum age for body art procedures. ID for both parent/guardian and some type of verification of legal relationship between parent/guardian and child is needed for the minor. Suggest legislative change to mandate some form of ID for the minor. RE: Masks/Sleeves-PPE requirements are the jurisdiction of MIOSHA, not MDHHS. :
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Kelsey Bradley, Kelsey Bradely Artistry	Written	R 333.13109 R 333.13113	In my typical daily procedures, I use one or more topical anesthetics that contain up to 4% lidocaine which are sold “Over The Counter” to the public. These include primary and secondary (open skin) anesthetics. I am working in sensitive areas of the face and Keeping the client comfortable is crucial. However, to send a client to first see a doc and get a prescription increases the overall cost of service and can delay service due to dr availability. My question is when clients are required to get a prescribed anesthetic, Are we going to be able to create a form for them, listing our products with their ingredients and what we use them for to have a doctor sign off on it, or will they be required to get their own prescription anesthetic and bring it to the appointment? Second question, when will this go into effect?	RE: Prescribed anesthetic-The customer would be required to get their own prescription. RE: Effective Date- Upon their passing out of the Joint Committee on Administrative Rules- (Legislature) and and filing with the Secretary of State.
George Egy Equilibrium Piercing at Honest to Goodness	Written	R 333.13116 R 333.13117	I looked over the proposed changes to the regulations and I am happy to see some of these. Weekley spore testing is excellent. Requiring re-usable items to be soaked in an enzymatic solution rather than a hard surface disinfectant is very smart as hard surface disinfectants can coagulate materials that comprise bioburden making cleaning of these items prior to sterilization less effective. I'm happy to see language that is pertinent to use of cassette autoclaves as they become more common as well.	DHHS agrees with this change. Recommend updating the following wording: R 333.13116 7(d): Processed through an appropriately covered ultrasonic cleaner

Captain Wally, Organization Unknown	Written	R 333.13113	I've seen a lot of rumors online about rule 13, number 15. As I read it, it only applies to the rotary pen cartridge requirement, but a lot of people interpret it to mean that only rotary pens are allowed and that coil machines will be banned. Can that rule be clarified so there is no confusion?	Agree. Recommend changing the following wording for clarification: R 333.13113 Preparation and care of body art area; conducting procedure; violations considered critical violations. (15) If only rotary pen tattoo machines are used, only machines that utilize presterilized, single-use needle cartridge systems with appropriate backflow prevention devices, such as membranes or barriers, or those equipped with detachable, single-use disposable sterile combo couplers and detachable, single-use disposable casings or casings that can be cleaned and sterilized, are allowed for use.
Heather Beermann, Macomb County Health Department	Written	R 333.13114 (4) R 333.13119 (30) R 333.13113 (25) R 333.13120 (5) (vi)	R333.13114 (4) At the end of this rule, insert the following statement: "Jewelry that is individually packaged and appropriately sterilized by the manufacturer does not need to be cleaned and autoclaved at the facility" R333.13119 (30) add the following statement: Animals, "except for aquariums located in the lobby or client waiting area",... Add new rule: "Live plants are not allowed in procedure areas or reprocessing areas" Temperature for handwashing should be specified as at least 85*, which is the current standard in both the food code and international building code R333.13113 (25): replace the term "pigments or inks" with the term "products" in both places it appears R333.13120 (5) (vi): for clarification and to prevent confusion, insert the wording: If	R333.13114 (4) At the end of this rule, insert the following statement: "Jewelry that is individually packaged and appropriately sterilized by the manufacturer does not need to be cleaned and autoclaved at the facility" DHHS- Agree. Recommend updating this rule. R333.13119 (30) add the following statement: Animals, "except for aquariums located in the lobby or client waiting area",... Add new rule: "Live plants are not allowed in procedure areas or reprocessing areas" DHHS- Agree. Recommend updating this rule. Temperature for handwashing should be specified as at least 85*, which is the current standard in both the food code and international building code DHHS - Agree. Recommend updating 333.13101 Definitions 9 (z) "Hand washing" R333.13113 (25): replace the term "pigments or inks" with the term "products" in both places it

Madelyn McFarland, Organization Unknown	Written	R 333.13109	In the wording of.Part 3 section 12 part F.v. It appears as if the State is allowing the use of marijuana while at work. I believe the line about marijuana (in this section only) should be removed.	DHHS agrees with this change. Recommend removing Rule 333.13109(12)(e)(v)
Angela Parsons, Washtenaw County Health Department	Written	Various	R 333.13101 Definitions. (aa) “Hand washing sink” means a sink equipped to provide water with both hot and cold temperatures at a temperature of at least 85oF (29.4oC) through a mixing valve or combination faucet, used solely for washing hands, arms, or prosthetics. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet. An automatic handwashing facility shall be installed in accordance with manufacturer’s instructions. •Aligns handwashing sink requirement with 2022 FDA Food Code. (bb) “Instruments” means needles, needles attached to the needle bars, body piercing needles, razors, scarification implements, and other devices that may come in contact with a client’s body or that may have possible exposure to bodily fluids blood or other potentially infectious material during the body art procedure. •OPIM is defined; bodily fluids is not.	R 333.13101 Definitions.-DHHS disagrees. The water temperature was added to the definition of “handwashing”. The remainder of the comment will become part of a job aid or manual as additional guidance. R 333.13101 Definitions -(bb) DHHS agrees with the change. The new language will read “Instruments” means needles, needles attached to the needle bars, body piercing needles, razors, scarification implements, and other devices that may come in contact with a client’s body or that may have possible exposure to bodily fluids blood or other potentially infectious material during the body art procedure. R 333.13101 Definitions-(hh) “DHHS disagrees with the change. Municipal solid waste” means common trash or garbage that does not meet the definition of hazardous or biomedical waste. R 333.13101 Definitions-(jj) DHHS response: DHHS agrees with this change but added "and rules" as there are also many regulations that the body art faciility operator must follow as well.”..

R 333.13101 Definitions (xx) DHHS agrees with this

Tammy Hadley, The Image Barn, Springport, MI	Public Hearing	R 333.13109 R 333.13113	1.it doesn't make any sense to me why we can't use topicals as long as there are some kind of regulations on it. Now, I know that they're not FDA approved, but needle -- neither are needles, neither are pigments, neither are any tattoo ink. 2. the other thing that I wanted to talk about today is the fact that I didn't know that these meetings were happening. And I'm not putting the blame on anybody. I always read my emails, and I always go through everything that I can, but I found out that the work groups were made up of body art facility owners and not necessarily represented by a permanent makeup artist. I don't want to make the rules for what tattoo shops do, even though we are under the same licensing, because I don't know. I feel like that would be wrong for me to make rules that deal with body piercing.	1. FDA regulates topical anesthetics as drugs. MDHHS can not approve the use of a drug product for something that the FDA has not approved it for. Inks and pigments are classified by the FDA as cosmetics. 2. These meetings have been happening since 2010, with 2 separate public notices and public hearings (2016 and 2019). Throughout that process, many tattooers, piercers, and permanent makeup artists/microbladers have been involved. Many emails have been sent out throughout the years. MDHHS actually went beyond the minimum JCAR requirement when it sent the current email notification to all facility owners.
Chelsea Orrico	Public Hearing	General R 333.13109 R 333.13113	1. I do feel like there is a lot of room for more that could be done with the permanent cosmetics part of your regulations. 2. I think a safe estimate would be at least 50 percent of the people that get permanent cosmetics are not going to get it if they can't use any kind of numbing agent, or you're going to have people who are trying to apply it themselves, at home...but my point is that I think you're going to have clients, both in body art and permanent cosmetics, that are applying these things on their own, without any instruction or guidance, and I'm just a little nervous for how that might end up impacting us or falling back the service provider.	1. Disagree. there is no difference on a public health standpoint regarding permanent cosmetics and tattooing, 2. There are two additions in the current proposed rule set regarding numbing creams, topical anesthetics. One, specifically, is stating that the artist cannot apply. The other rule states that you're not allowed to work on a client where it's been applied

Cheryl Jones	Public Hearing	General R 333.13109 R 333.13113	1. My first question is, what prompted this, the rule changes all of a sudden?· What prompted it? 2. What prompted the draft for the regulation of the type of tattoo machines that we currently use?·(rotary pens) 3. Discussion regarding numbing agents, "medical procedures". 4. How come -- after all these years, if this isn't an official, you know, rule set yet, or official law, how come we haven't made a minimum age requirement yet?... I mean, that's something that,quite honestly, ·years that, you know, there's people getting away with tattooing children, you know.·	1.. This rule promulgation process was prompted by PA 375 of 2010 2. That rule will be clarified to prevent confusion that has been brought to our attention 3. The only reference to AAMI is with regards to autoclave requirements, reprocessing and sterilization standards, and spore testing. Numbing agents are not allowed without a prescription 4. The minimum age and consent requirement is in the law (MCL 333.13102)
Angela Parsons, Washtenaw County Health Department	Written Comment	R 333.13113(15)	Clarifies that other machines are also allowed, and that this section only applies to rotary pens.	DHHS agrees with this statement. Rule 13113(15) amended.

From: [Harlequin Tattoo](#)
To: [MDHHS-AdminRules](#)
Subject: Changed in licensing
Date: Friday, October 18, 2024 2:18:14 PM

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abuse@michigan.gov**

I have read the proposed changes however, everything look the same. What is actually changing? Thank you.

Harlequin Tattoo
10021 Joseph Campau
Hamtramck, MI 48212
313.870.1682

From: [Dawn Smith](#)
To: [MDHHS-AdminRules](#)
Subject: Body art
Date: Friday, October 18, 2024 3:16:16 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Everything seems the same to me for the most part from the tattooing perspective. I think it's important to note that given the nature of our intricate work it is important that the health department agents respect clients during their procedure by not interrupting the procedure itself. It puts the client at greater risk for healing complications when stopping for long periods to address inspections. It causes more undue pain and makes for a stressful experience for clients who are there for a service that they are paying for. If agents need to see procedures being done they should come in and quietly observe and then schedule time for the inspection when the procedure is done or on a different day. You wouldn't barge into a surgical suit and ask the surgeon to stop and show you his paperwork.

Also we have no control over what a client takes or puts on his skin before he comes through our doors. So if a client puts a numbing cream on and then goes to the bathroom and wipes it off before we start a procedure there is nothing we can do about that. We aren't psychics. We don't have ESP. And we can't know what our clients have done before they come through our doors.

Dawn Smith tattoo artist

From: [Black Ball Tattoo](#)
To: [MDHHS-AdminRules](#)
Subject: Re: Body Art Rule Promulgation Update
Date: Friday, October 18, 2024 3:35:13 PM
Attachments: [DraftRule \(69\) Body Art Facilities 2023-59 HS LSB EDITS FINAL 7-29-2024.docx](#)

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To Whom it may concern,

After reviewing the purposed Promulgation Update for Body Art Facilities myself and my staff have voiced concerns within section 3; 5.

(5) Body art technicians shall not perform body art procedures on skin or mucosal surfaces that have been affected by any topical anesthetic, external analgesic, or another product that contains an anesthetic active ingredient, unless the product, dosage, and directions for use are appropriately prescribed by a licensed physician for use before or during body art procedures. Documentation of the prescription must be made part of the client record.

Currently we use over an over the counter product , Bactine to asist with the tattoo process. We have found that the small amount of lidocain allows the client to feel relief from the process when long sessions are required. It also asists in lessening the redness and inflammation of the skin as it is marketed for cuts and burns as well as providing a first aid antiseptic used to prevent bacterial contamination or skin infection. We do also have other tattoo marketed products that have lidocain in the ingredients that are very regulated and directions are followed. We ask all clients before use as well as having it listed in our check in paperwork so they are aware it's a product we use and ask that they indicated any allergys ahead of time.

What we are asking is that it be specified in the regulations that is products that are "over the counter" and available to the public be allowed to use as long as driections are followed, clients are asked and made aware of the product and it's ingredients ahead of time and that the paperwork lists these products so that the client can clearly indicate any allergies.

The other issue we have noticed with the new proposed regulations in section 3:7 C

(c) Maintain fingernails short with smooth, filed edges to allow thorough cleaning and prevent glove tears.

What constitueds "short" will this be specified or is that left up to the inspector of that designated health department?

Thank you,

Beth

Manager

Black Ball Tattoo

3126 Jefferson Ave.

Midland, MI. 48640

989-835-6672

blackballtattoo@hotmail.com

www.blackballtattoo.com

Hours:

Tuesday – Saturday 1:00pm – 8:00pm,

Closed Sunday and Monday

From: BodyArt <BodyArt@michigan.gov>

Sent: Friday, October 18, 2024 9:41 AM

To: BodyArt <BodyArt@michigan.gov>

Subject: Body Art Rule Promulgation Update

Greetings,

Through the collaboration of the MDHHS Body Art Unit, Local Health Department Inspectors and Body Art Facility Owners we have updated our current Body Art Facility requirements and started the rule promulgation process. Attached are the proposed rules. The public hearing will be Monday October 28, 2024, at 9:00 in the Dempsey Room of the Grand Tower Building 235 S Grand Ave, Lansing MI 48933.

You are welcome to comment on the proposed rules, you do not have to attend the hearing to make comments, they can be emailed to MDHHS-AdminRules@michigan.gov or mailed to MDHHS Grand Tower Building 235 S. Grand Avenue- 2nd Floor-Legal Affairs Administration, Lansing, MI 48933.

Regards,

Kathryn Morehouse

(517)582-3971

BodyArt@michigan.gov

morehousek1@michigan.gov

michigan.gov/bodyart

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From: [Courtney Kryda](#)
To: [MDHHS-AdminRules](#)
Subject: Tattoo Shop Inspections
Date: Friday, October 18, 2024 4:45:49 PM

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Hello,

I was made aware of a new law that may pass where a health inspection may occur while a tattoo is in session.

I think, in my whole hearted opinion, as a heavily tattooed person, that an inspection needs to be scheduled and not on a whim.

If I were getting tattooed and have to wait an hour for an inspection to occur, going back after that hour would be more painful as that area would swell after an hour. At this of point, I would want to leave and go home. If you had a doctors appointment or a surgery and someone had to complete a spur of the moment inspection, with you laying on the operating table-how would you feel about that?

Additionally, numbing creams should be able to used. I would like to hear how this rationale of it being illegal to use is detrimental to the client or anyone else. Some people have a low pain tolerance and need to use it or to make it through the rest of the tattoo.

I hope that you consider these points.

Thank you for reading,

Courtney Kryda, LMSW

From: [Electric Love Tattoo Luke & Elyria](#)
To: [MDHHS-AdminRules](#)
Subject: Proposal rules
Date: Sunday, October 20, 2024 2:55:22 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Hello. My name is Megan, owner of tattoo shop in downtown Pontiac and Tattooer of 10+ years.

I'm concerned by these rules of having nails and use of topical numbing cream- I feel like this begins to infringe on the autonomy of artists and clients. I've spent many years growing my nails beautifully and do not want to cut them. I have no issues with gloves or cleanliness due to having nails. I scrub them multiple times daily with nail scrubber brush and antibacterial soap at work before between and after appointments

Numbing creams- I feel it would be less invasive on personal choice if we posted in the shop FDA approved and banned creams that can or can't be used as well as adding to the consent form a waiver for using such products listing the product information signed by client - there are over the counter safe basic creams that do not exceed FDA recommend amount of lidocaine numbing agents, that do not require a prescription. Plus we cannot tell if clients come in and have applied something and removed it prior to appointment.

Also very irritating having interruptions during business hours for inspections at random - these should be scheduled due to the likelihood of tattooing clients. Our clients are in pain during the tattoo process, having to stop to accommodate inspections (especially owners or managers who have to stop what they are doing to retrieve paperwork and talk with inspectors is time consuming, cutting into our schedule pushing appointments back, causing inconvenience and more pain to our clients is not good for business. It is extremely painful for clients to have to take breaks during the tattoo process and resume again. Tattoos take a ton of focus, to be pulled out of or interrupted while focused jeopardizing the experience, and quality of the work being performed. We take tattooing very seriously, and although it is cosmetic, it is still a permanent alteration to the body, and is very important to the client and artist. It takes a ton of mental preparation and the interruption can throw everyone off. They are paying good money for an efficient experience. You'd never stop a surgeon and ask for paperwork during a procedure. We almost always end up having to reschedule people or give discounts, docking our pay, due to random inspection interruptions.

Thank you for your time.
Megan Davis
Electric Love Tattoo
Pontiac, MI

From: [S. Beauty Concepts](#)
To: [MDHHS-AdminRules](#)
Subject: Comment
Date: Monday, October 21, 2024 1:34:27 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Hi,

My Name is Shanika Ingle.
Owner of Beauty Concepts PMU LLC.

I have a comment on the proposed rules and the one that I would like to see some reform or flexibility is the use of topical numbing creams. I do permanent cosmetics that includes Eyeliner, Lip blushing and Microblading/Nano Brows. I've been in business for 7 years and i have never had issues with the topical numbing creams I use and given the sensitive areas I do the tattooing, most of my clients prefer to have the numbing agent to help, even if its 5% lidocaine.

I understand the concern for the quality and origins of numbing creams and that people should not be able to order random creams off the internet from sketchy sites etc but with reputable sources I believe numbing creams to be one of the most important steps in my process. Clients are much happier with how comfortable they can be for the 2-3 hours I'm working on them.

I would like to see that in the Consent/Liability forms that we are required to have signed that we acknowledge the concerns with OUR personal numbing agents we use (even listing them) and having the clients sign off on that and consenting.

I fear that if I loose the ability to numb clients and keep them comfortable I will lose a significant amount of clientele that I have worked very hard to gain over the last 7 years.

Any tattoo that we apply to skin there is always an unpredictability with how skin will react and thats the purpose of informing clients on what could happen and getting their consent. It's a risk THEY choose to take when getting elected enhancements to the body so adding a additional consent area to a Consent form, explaining numbing agents and our own brand/source would be sufficient in my eyes.

Thank you for your time,

Shanika M. Ingle
Beauty Concepts PMU LLC

From: [S. Beauty Concepts](#)
To: [MDHHS-AdminRules](#)
Subject: Comment
Date: Monday, October 21, 2024 1:34:27 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

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Thank you for your time,

Shanika M. Ingle
Beauty Concepts PMU LLC

From: [Hannah Brown](#)
To: [MDHHS-AdminRules](#)
Subject: Comment on proposed laws
Date: Tuesday, October 22, 2024 9:48:32 AM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Hello, I would like to add a comment, or complaint rather, to the law R.333.13109 section 5) no use of topical anesthetics unless prescribed dosage given by doctor.

I have been told by several doctors and medics that the topical anesthetics that I have found to be available are safe, and efficient. Also, they are over the counter products, not medical grade, and come with instructions, so as long as they are followed, they are generally safe. Adverse reactions can happen from any item we use on the skin, as such with anything you can use on the skin from a store. For example, green soap, microbial soaps, and castile soaps can cause burns and rashes if not diluted. Each of these soaps are not prescribed by doctors, but are involved with prep of the clients skin and our skin, and only directions off the bottles are followed.

Also, I have a couple clients that were suggested to use numbing creams by their doctors, to aid in keeping their blood pressure down, as they had issues with blood pressure, but were given the OK to have tattoos done. When explained from a doctor, pain and stress management can cause increase in blood pressure, and therefore stress on the heart. If topically numbing the area can help keep blood pressure down, and keeping less stress on the heart, it seems a wise tool to be used by a technician, or client, as long as it is not medical grade and used appropriately.

Thank you for your time and consideration.
Hannah Brown

From: [Hannah Brown](#)
To: [MDHHS-AdminRules](#)
Subject: Comment on proposed laws
Date: Tuesday, October 22, 2024 9:48:32 AM

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Thank you for your time and consideration.
Hannah Brown

From: [Lisa Stevens](#)
To: [MDHHS-AdminRules](#)
Subject: Proposed Body Art Rules
Date: Wednesday, October 23, 2024 9:56:14 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Hi, I have read over the updated proposed rules for Body Art and the only thing that I would like to comment on is part 3 #5 where it says that the use of topical anesthetic can't be used. As a permanent makeup artist, one of my biggest concerns is the comfort of my client. Microblading, permanent eyeliner, and lip blushing can be very painful. I use an over the counter numbing cream to help keep my clients comfortable during the procedure. I go over what I use and the ingredients in the cream and even have it listed in my paperwork that they have to sign before the procedure. I believe that if we are unable to use a numbing cream to keep that clients from feeling too much pain it will kill the permanent makeup industry in Michigan and clients will take their business to other states or even to Canada where they can be numbed before the procedure. Thank you for letting me share my concerns.

From: [Leif Kolt](#)
To: [MDHHS-AdminRules](#)
Subject: Public Comment RE: New Body Art Regulations
Date: Friday, October 25, 2024 1:28:24 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

To whom it may concern:

I am submitting the following as public comment in regards to the newly proposed MDHHS Body Art Regulations.

My name is Leif Kolt, and I'm a tattooist and owner of Black Candle Tattoo Co, a private studio located in Traverse City. Besides creating unique pieces of art for clients, we pride ourselves on having some of the most rigorous health and safety standards in the state. Things like health screening, temperature checks, masking during appointments, and limited appointment schedules have allowed us to raise the bar for client and artist safety, including those who have immunocompromised family members, or who would not otherwise feel comfortable in a typical tattoo atmosphere.

In general, I applaud the overhaul of Michigan's body art code. It's well overdue, and not only does the new code address some of the glaring holes in the current regulations, but also makes common sense adjustments to certain parts of the code that didn't actually result in increased safety.

That being said, I would like to submit the following points for your consideration...

First off, and in my opinion most importantly, are the regulations regarding the tattooing of a minor. Unless I'm missing something, the proposed body art code does not set a minimum age for getting a body art procedure. Part of this is because of how the code lumps all body art together, as opposed to setting different standards between piercing, tattooing, and branding or scarification procedures. While it does set guidelines around the documentation needed in order to perform procedures, as well as limiting procedures on the private areas of a minor, it still leaves a large gray area around the limits of what constitutes an eligible minor, consent, and how body artists can verify a minor's identity.

For the record, the majority of what I'm talking about here applies to tattoos, branding, and scarification, but, depending on your interpretations, could lead to some edits regarding piercing as well.

While, the majority of tattoo artists set their own ethical standards around age limits on tattooing minors, leaving this part of the new code as written not only endangers children of neglectful parents working with unethical artists (as far fetched as it may be), but also potentially those who are victims of child trafficking.

As it stands... R333.13110 (i) *“If the client is a minor, proof of parental or legal guardian identification and a copy of documentation verifying the legal guardian’s relationship with the*

minor.” and R333.13109 (6), regulating procedures on genitals or nipples of a minor, are the only specific guidance regulating body art procedures on people under 18-years of age. While it seems outlandish, this means that, as it reads, this code leaves it open for a parent and artist to technically tattoo, brand, or scar anyone under the age of 18, even an infant. Again, seems highly outlandish, as well as unlikely to find people with such ill intent, but it does leave the door open.

Additionally, the proposed code does not mention the minor giving their own consent, and while minors are limited in the things they can consent to, and the types of legal documents they can sign, there is precedent in the state for minors giving their consent. For instance, in the case of certain medical procedures, like abortion, outpatient counseling, and substance abuse treatment.

Lastly, while the proposed code requires parent/guardian identification, there is no mention of needing to ID the minor. Obviously, this is hard (or not possible) for the vast majority of minors under 16-years of age. Unfortunately, this leaves the door open for an adult with an identification and documentation (which could possibly be fraudulent), to bring in ANY minor claiming them to be the person listed on the documents. Obviously, this puts a lot of onus onto the artists, as far as verifying the credibility of documents, and in my opinion leaves too much wiggle room for bad actors, or negligent parents.

For these reasons, I would like to propose an alteration to this portion of the code, stating the following...

- A difference in regulations between piercing and the other body art procedures (tattooing/scarification/branding). *As a father of 2 and 4 year old girls who both want their ears pierced soon, I'd much rather take my girls to a piercing studio as opposed to Claire's or some other retail operation.*
- Setting a minimum age of 16-years old for non-piercing body art procedures. *If a minor is trusted to drive, one of the most dangerous things we do on a daily basis, they can be trusted to alter their own body.*
- Requiring some sort of photo ID from the minor. *Having a minimum age of 16 also means most kids will have a drivers license. If they don't have a license, they can still get a state issued ID, and many minors also have school ID's.*
- Requiring written consent from the minor for non-piercing body art procedures.

I absolutely believe in the personal freedom of minor's to make decisions about their own bodies, as well as having access to said services, so while these alterations don't make the regulations completely flawless, they do clear up a few of the glaring omissions in the currently proposed code, making it safer for minors, and providing solid guidance for artists.

Fortunately for everyone, my last few recommendations are more brief.

I would strongly urge officials to consider the inclusion of arm sleeves as a mandatory piece of PPE in regards to non-piercing body art procedures. While the code stresses hand washing and aseptic technique, it makes no mention of such coverings. While I understand the vast majority of tattoo artists do not like using these, I feel it's nonsensical to require someone to wear gloves, but not a covering on their arms, which often times come in close contact to,

or touch the skin surface, when tattooing, especially on larger pieces like the back, chest, or leg. In my own personal experience, I have seen multiple times where I've been tattooed and the artist's arm has either ink, or other fluids, on their forearm. While they were properly washed, and I did not get infections in these cases, I still find it a giant hole in the overall effectiveness of the body art code, as it basically amounts to tattooing without gloves. I've been using arm sleeves since 2020, and it took me some time to adjust to them, but now there is no way I would tattoo without them, for the health of both my clients, and myself.

While not as strongly as arm sleeves, I also urge you to consider the requirement for artist's to wear masks while performing body art procedures. I know this is a divisive issue, but health policy and political belief should not intertwine. I started masking while tattooing in 2020, during the pandemic, and have since made it a mandatory part of how we operate at the studio. Most of us would be disturbed if a dentist, or medical professional, went to perform a procedure and did not wear a mask, especially one involving blood or broken and exposed skin. I believe tattooing should be treated the same. With some appointments lasting multiple hours of close contact, as well as the proximity of the artist's face to the client's body, it just makes sense.

In closing, I'd like to reiterate how happy I am that the state is revamping its body art code, and applaud the vast majority of updates included in the proposed regulations. They bring much of the code into the modern era, as well as align it with the majority of the industry. That being said, I hope you'll consider these suggestions, and please feel free to contact me for any further input or clarifications.

Sincerely, thanks for your time and all you do for Michigan's body art industry.

(I also have this as a .pdf document if you'd like me to send that, but I didn't want to get hit by your spam blocker.)



Leif Kolt, Owner & Artist
Black Candle Tattoo Co.
(231) 268-0015
leif@blackcandletattoo.com
<https://instagram.com/leifkolt>

From: [Kelsey Bradley](#)
To: [MDHHS-AdminRules](#)
Subject: Permanent Makeup and anesthetics
Date: Saturday, October 26, 2024 8:14:19 PM

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Hello, my name is Kelsey and I am a permanent makeup artist in Traverse City, Michigan

In my typical daily procedures, I use one or more topical anesthetics that contain up to 4% lidocaine which are sold "Over The Counter" to the public. These include primary and secondary (open skin) anesthetics.

I am working in sensitive areas of the face and Keeping the client comfortable is crucial. However, to send a client to first see a doc and get a prescription increases the overall cost of service and can delay service due to dr availability.

My question is when clients are required to get a prescribed anesthetic, Are we going to be able to create a form for them, listing our products with their ingredients and what we use them for to have a doctor sign off on it, or will they be required to get their own prescription anesthetic and bring it to the appointment?

Second question, when will this go into effect?

Thank you

Kelsey Bradley

From: [George Egy](#)
To: [MDHHS-AdminRules](#)
Subject: Proposed Rule changes for body art facilities in Michigan
Date: Monday, October 28, 2024 2:49:48 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Hello. I looked over the proposed changes to the regulations and I am happy to see some of these. Weekly spore testing is excellent. Requiring re-usable items to be soaked in an enzymatic solution rather than a hard surface disinfectant is very smart as hard surface disinfectants can coagulate materials that comprise bioburden making cleaning of these items prior to sterilization less effective. I'm happy to see language that is pertinent to use of cassette autoclaves as they become more common as well.

All of that being said, I would love to see some language requiring an ultrasonic with a lid that seals. This alone could prevent aerosolization of possible contaminants during the ultrasonic process. If that is not an option, at the very least, an ultrasonic should be covered with a plastic bin of some kind, or have a shower cap put over it while running. These solutions would prevent an entire room from having to be considered contaminated, reducing possible cross-contamination during the cleaning process.

I'm so happy to see these changes being made and it seems like everything is moving in the right direction. I am very proud to operate a body art business in the state of Michigan. Thank you for all of your hard work!!

George Egy
Equilibrium Piercing at Honest to Goodness
616 233 0822

From: [Captain Wally](#)
To: [MDHHS-AdminRules](#)
Subject: Body Art Rules
Date: Tuesday, October 29, 2024 4:35:13 PM

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I've seen a lot of rumors online about rule 13, number 15. As I read it, it only applies to the rotary pen cartridge requirement, but a lot of people interpret it to mean that only rotary pens are allowed and that coil machines will be banned. Can that rule be clarified so there is no confusion?

Thanks!

From: [Heather Beermann](#)
To: [MDHHS-AdminRules](#)
Subject: Possible Changes
Date: Wednesday, October 30, 2024 12:54:32 PM

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I would like to submit these comments for possible changes:

R333.13114 (4) At the end of this rule, insert the following statement: "Jewelry that is individually packaged and appropriately sterilized by the manufacturer does not need to be cleaned and autoclaved at the facility"

R333.13119 (30) add the following statement: Animals, "except for aquariums located in the lobby or client waiting area",...

Add new rule: "Live plants are not allowed in procedure areas or reprocessing areas"

Temperature for handwashing should be specified as at least 85*, which is the current standard in both the food code and international building code

R333.13113 (25): replace the term "pigments or inks" with the term "products" in both places it appears

R333.13120 (5) (vi): for clarification and to prevent confusion, insert the wording: If "new and unused" jewelry or instruments are sterilized...

MCL 333.13110 does not allow for LHD enforcement as worded, and could use a minor clarification change. I would propose adding the following rule: "A person shall not sell, give, or provide to a minor a tattooing, branding, or body piercing kit or other tattooing, branding, or body piercing device"

Thank you for your consideration, and for your commitment to protecting public health!

Heather Beermann, R.E.H.S
Environmentalist III

Macomb County Health Department
Environmental Health Division
43525 Elizabeth Road, Mount Clemens, MI 48043
Office: (586) 469-5236
Cell: (586) 405-0593
Email: heather.beermann@macombgov.org

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From: [Madelyn McFarland](#)
To: [MDHHS-AdminRules](#)
Subject: Body Art Question
Date: Friday, November 1, 2024 4:02:04 PM

**CAUTION: This is an External email. Please send suspicious emails to
abuse@michigan.gov**

To whom it may concern,

In the wording of Part 3 section 12 part F.v.

It appears as if the State is allowing the use of marijuana while at work. I believe the line about marijuana (in this section only) should be removed.



Thank you!

From: [Madelyn McFarland](#)
To: [MDHHS-AdminRules](#)
Subject: Body Art Question
Date: Friday, November 1, 2024 4:02:04 PM

**CAUTION: This is an External email. Please send suspicious emails to
abuse@michigan.gov**

To whom it may concern,

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It appears as if the State is allowing the use of marijuana while at work. I believe the line about marijuana (in this section only) should be removed.



Thank you!



Date: November 1, 2024

To: Michigan Department of Health and Human Services Body Art Rules Committee

From: Angela Parsons, MA, Senior Management Analyst, Washtenaw County Health Department, Environmental Health Division

The Washtenaw County Health Department has participated in the State of Michigan Body Art Workgroup since its inception over a decade ago. We are pleased that Rules have been drafted to accompany Public Act 375, the State of Michigan Body Art Law, and that the Rules are moving through the legislative process. Our staff worked with other local health departments and with body art facilities in crafting language that now appears in the proposed Rules.

Our Health Department supports the passage of the proposed Rules for Body Art Facilities, with minor suggested changes included here. These Rules provide clarity, protect the health and safety of body art clients, and establish an improved enforcement mechanism.

Thank you for the work that has gone into developing these Rules, and for allowing our feedback.

R 333.13101 Definitions.

(aa) "Hand washing sink" means a sink equipped to provide water ~~with both hot and cold temperatures~~ **at a temperature of at least 85°F (29.4°C)** through a mixing valve or combination faucet, used solely for washing hands, arms, or prosthetics. **A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet. An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.**

- *Aligns handwashing sink requirement with [2022 FDA Food Code](#).*

(bb) "Instruments" means needles, needles attached to the needle bars, body piercing needles, razors, scarification implements, and other devices that may come in contact with a client's body or that may have possible exposure to ~~bodily fluids~~ **blood or other potentially infectious material** during the body art procedure.

- *OPIM is defined; bodily fluids is not.*

(hh) "Municipal solid waste" means common trash or garbage that does not meet the definition of hazardous or ~~biomedical~~ waste.

- *Medical waste is defined; biomedical waste is not.*

Washtenaw County Health Department
555 Towner Street • Ypsilanti, MI 48198
Phone: 734-544-6700 • Fax: 734-544-6705
washtenaw.org/health



Environmental Health Division
705 N Zeeb Road • Ann Arbor, MI 48103
Phone: 734-222-3800 • Fax: 734-222-3930
washtenaw.org/envhealth

(jj) “Operator” means a person that controls any interest in, operates, or manages a body art facility and is responsible for compliance with these ~~regulations~~ **rules**, whether or not actually performing body art activities.

- *Corrects terminology.*

(xx) “Single-use, disposable” means products or items that are intended for 1-time, 1-individual use and are disposed of after use on each client, including, but not limited to, the following:

- (i) Cotton swabs or cotton balls.
- (ii) Tissues or paper products.
- (iii) Paper or plastic cups.
- (iv) Gauze and sanitary coverings.
- (v) Razors.
- (vi) Needles.
- (vii) Scalpel blades.
- (viii) Stencils, **including marking pens, pencils, or string, or other such materials.**
- (ix) Ink cups.
- (x) Protective gloves.

- *Adds clarity that these items are single-use only.*

R 333.13109 Requirements for body art technicians and other individuals with potential exposure to blood and OPIM; adoption of youth employment standards; violations considered critical violations.

(12) ~~Body art technicians and other individuals, such as assistants,~~ **All personnel working in the body art facility** with the potential for exposure to blood and OPIM shall perform appropriate hand washing when performing, setting up for, or cleaning up after procedures. At a minimum, hand washing must be performed at all of the following times:

- *Provides consistent language with other sections. Some individuals who set up or clean up are not “body art technicians” and the term “assistants” is not defined.*

R 333.13113 Preparation and care of body art area; conducting procedure; violations considered critical violations.

(15) ~~If Only~~ rotary pen tattoo machines **are used, only machines** that utilize presterilized, single-use needle cartridge systems with appropriate backflow prevention devices, such as membranes or barriers, or those equipped with detachable, single-use disposable sterile combo couplers and detachable, single-use disposable casings or casings that can be cleaned and sterilized, are allowed for use.

- *Clarifies that other machines are also allowed, and that this section only applies to rotary pens.*

R 333.13114 Body art jewelry; prohibitions; composition; violations considered critical violations.

(4) All body jewelry used for piercing must be new and unused, cleaned in accordance with the jewelry manufacturer’s instructions, and sterilized before use. If the manufacturer does not provide instructions for use, the item ~~should~~ **must** be inspected for cleanliness and sterilized in an autoclave according to the autoclave manufacturer’s instructions.

- *Clarifies that this is a requirement, not optional.*

R 333.13116 Cleaning, and sterilization procedures; violations considered critical violations.

(7) When using **reusable** instruments for body art procedures the instruments must be cleaned as follows:

- (a) Soaked or immersed in an enzymatic or other appropriate solution.
- (b) Scrubbed to remove debris.
- (c) Rinsed and inspected.
- (d) Processed through an ultrasonic cleaner.
- (e) Rinsed and dried.
- (f) Inspected.
- (g) Sterilized.

- *Clarifies that this section applies to the cleaning and sterilization of reusable instruments only, not new, unused/unworn instruments.*

~~(14) Sterilized instruments must not be used if the package integrity has been breached or compromised, is wet or stained, or the expiration date has been exceeded without first repackaging and re-sterilizing.~~

- *Delete this section, as it is a near verbatim repeat of R333.13113 (20).*

R 333.13119 Facility requirements; violations considered critical violations.

(7) If the body art facility has a check-in room or waiting room and/or retail area, procedure areas must be separated from both the customer waiting area and retail area by a partition or barrier.

- *Adds clarification, as some facilities may have one or the other, not both a retail and waiting area.*

(15) The facility must be provided with an artificial light source equivalent to at least 20 foot-candles, 3 feet off the floor, except that 100 foot-candles must be provided at the level where the procedures are being performed, where instruments and sharps are either handled, cleaned, or assembled, or where handwashing stations are located.

- *Correcting grammatical error.*

(16) Spot lighting may be utilized to achieve the required degree of illumination for the purpose of conducting procedures. (17) Fluorescent tube lighting over a procedure area must be protected from accidental breakage during a procedure by an appropriate covering.

- *Make the second sentence a separate section, as these are two different issues.*

(18) If on-site sterilization of disposable instruments or new unused jewelry, or both, for piercing is performed at the facility, the cleaning and sterilization must occur in a location that is not subject to reasonably anticipated contamination.

- *Corrects confusing language.*

(24) Liquid soap and single-use, disposable paper towels must be readily accessible to hand washing sinks. There must be a covered waste receptacle by each sink for the disposal of paper towels.

- *Adds clarity.*

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- *Suggest deleting. It is not clear how this section is different from the requirements for permanent facilities under R 333.13119 (15) and (16).*

Add these sections:

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- *The proposed Rules do not address the storage of supplies such as ink caps, cotton swabs, tongue depressors, paper towels, and other items which are used on the client's skin, and often on broken skin, and which could become contaminated if left uncovered or in an unsanitary location.*

From: [Angela Parsons](#)
To: [MDHHS-AdminRules](#)
Cc: [Jimena Loveluck](#); [Kristen Schweighoefer](#)
Subject: Comments on proposed Body Art Rules
Date: Friday, November 1, 2024 4:09:52 PM
Attachments: [image001.png](#)
[Body Art Proposed Administrative Rules - Comments from Washtenaw County Health Department 11.1.24.pdf](#)

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Attached and below are comments regarding the proposed Administrative Rules for Body Art Facilities.

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Our Health Department supports the passage of the proposed Rules for Body Art Facilities, with minor suggested changes included here. These Rules provide clarity, protect the health and safety of body art clients, and establish an improved enforcement mechanism.

Thank you for the work that has gone into developing these Rules, and for allowing our feedback.

R 333.13101 Definitions.

(aa) "Hand washing sink" means a sink equipped to provide water ~~with both hot and cold temperatures~~ **at a temperature of at least 85°F (29.4°C)** through a mixing valve or combination faucet, used solely for washing hands, arms, or prosthetics. **A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet. An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.**

- *Aligns handwashing sink requirement with [2022 FDA Food Code](#).*

(bb) "Instruments" means needles, needles attached to the needle bars, body piercing needles, razors, scarification implements, and other devices that may come in contact with a client's body or that may have possible exposure to ~~bodily fluids~~ **blood or other potentially infectious material** during the body art procedure.

- *OPIM is defined; bodily fluids is not.*

(hh) "Municipal solid waste" means common trash or garbage that does not meet the definition of hazardous or biomedical waste.

- *Medical waste is defined; biomedical waste is not.*

(jj) "Operator" means a person that controls any interest in, operates, or manages a body art facility and is responsible for compliance with these ~~regulations~~ **rules**, whether or not actually performing body art activities.

- *Corrects terminology.*

(xx) "Single-use, disposable" means products or items that are intended for 1-time, 1-individual use and are disposed of after use on each client, including, but not limited to, the following:

- (i) Cotton swabs or cotton balls.
- (ii) Tissues or paper products.
- (iii) Paper or plastic cups.
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- (vi) Needles.
- (vii) Scalpel blades.
- (viii) Stencils, **including marking pens, pencils, or string, or other such materials.**
- (ix) Ink cups.
- (x) Protective gloves.

- *Adds clarity that these items are single-use only.*

R 333.13109 Requirements for body art technicians and other individuals with potential exposure to blood and OPIM; adoption of youth employment standards; violations considered critical violations.

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- *Provides consistent language with other sections. Some individuals who set up or clean up are not "body art technicians" and the term "assistants" is not defined.*

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(15) ~~If Only~~ rotary pen tattoo machines **are used, only machines** that utilize presterilized, single-use needle cartridge systems with appropriate backflow prevention devices, such as membranes or barriers, or those equipped with detachable, single-use disposable sterile combo couplers and detachable, single-use disposable casings or casings that can be cleaned and sterilized, are allowed for use.

- *Clarifies that other machines are also allowed, and that this section only applies to rotary pens.*

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(4) All body jewelry used for piercing must be new and unused, cleaned in accordance

with the jewelry manufacturer's instructions, and sterilized before use. If the manufacturer does not provide instructions for use, the item ~~should~~ **must** be inspected for cleanliness and sterilized in an autoclave according to the autoclave manufacturer's instructions.

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(7) When using **reusable** instruments for body art procedures the instruments must be cleaned as follows:

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- (b) Scrubbed to remove debris.
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- (d) Processed through an ultrasonic cleaner.
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- *Clarifies that this section applies to the cleaning and sterilization of reusable instruments only, not new, unused/unworn instruments.*

~~(14) Sterilized instruments must not be used if the package integrity has been breached or compromised, is wet or stained, or the expiration date has been exceeded without first repackaging and re-sterilizing.~~

- *Delete this section, as it is a near verbatim repeat of R333.13113 (20).*

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(7) If the body art facility has a check-in room or waiting room and **/or** retail area, procedure areas must be separated from both the customer waiting area and retail area by a partition or barrier.

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(15) The facility must be provided with an artificial light source equivalent to at least 20 foot-candles, 3 feet off the floor, except that 100 foot-candles must be provided at the level where the procedures are being performed, where instruments and sharps are either handled, cleaned, or assembled, or where handwashing stations are located.

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(16) Spot lighting may be utilized to achieve the required degree of illumination for the purpose of conducting procedures. **(17)** Fluorescent tube lighting over a procedure area must be protected from accidental breakage during a procedure by an appropriate covering.

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(18) If on-site sterilization of disposable instruments or new unused jewelry, ~~or both, for piercing~~ is performed at the facility, the cleaning and sterilization must occur in a location that is not subject to reasonably anticipated contamination.

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Angela Parsons, MA
Senior Management Analyst
she/her
Washtenaw County Health Department
Environmental Health Division
705 N Zeeb Road, Ann Arbor, MI 48103
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Washtenaw County
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