

Michigan Office of Administrative Hearings and Rules
MOAHR-Rules@michigan.gov

**AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

1. Agency Information

Agency name:

Health and Human Services

Division/Bureau/Office:

Public Health Administration

Name of person completing this form:

Talisa Gauthier

Phone number of person completing this form:

517-284-4853

E-mail of person completing this form:

GauthierT1@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

Mary Brennan

2. Rule Set Information

MOAHR assigned rule set number:

2023-59 HS

Title of proposed rule set:

Body Art Facilities

3. Purpose for the proposed rules and background:

This administrative rule set is new. There are no current body art administrative rules that provide guidance to those employed in or who own body art facilities and stakeholders involved in the body art facility process, including health inspectors, the courts, and law enforcement. In absence of these rules, the spread of disease by improper or illegal procedures performed by body art owners, operators and technicians is likely. At home, unregulated body artists do not follow proper infection control that hampers proper infection control and leads to the spread of infectious disease. As public health is of paramount concern, the rules will provide the necessary requirements to hold accountable those owners, operators, and technicians who wish to perform body art. The rules promote quality control and prevent the spread of infections and diseases, e.g., Hepatitis C, from occurring in this state. The rules also serve as enforcement to the major threat to the public by illegal tattooists offering at home services and procedures in unsanitary conditions.

4. Summary of proposed rules:

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5. List names of newspapers in which the notice of public hearing was published and publication dates:

Oakland Press, October 2, 2024; Marquette Mining Journal, October 2, 2024; Battle Creek Enquirer, October 2, 2024.

6. Date of publication of rules and notice of public hearing in Michigan Register:

10/15/2024

7. Date, time, and location of public hearing:

10/28/2024 09:00 AM at Grand Tower Building - Dempsey Room 1st Floor , 235 S. Grand Avenue, Lansing, Michigan 48933

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1486>

9. List of the name and title of agency representative(s) who attended the public hearing:

Kathryn Morehouse, DHHS Body Art Coordinator; Steve Schmidt, Macomb County Health Department; Jeff Saunders, Owner, Gamma Piercing.

10. Persons submitting comments of support:

Leif Kolt.

11. Persons submitting comments of opposition:

Dawn Smith, Courtney Kryda, Megan Davis, Cheryl Jones, Chelsea Orrico, Tammy Hadley, Kelsey Bradley, Lisa Stevens, Hannah Brown, Shanika Ingle, Dave Edwards, Beth from Black Ball Tattoo,

12. Persons submitting other comments:

Harlequin Tattoo; Tammy Hadley, George Egy, Captain Wally, Heather Beeman, Madelyn McFarland, Angela Parsons

13. Identify any changes made to the proposed rules based on comments received during the public comment period:

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	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for Rule Change and Description of Change(s) Made	Rule number & citation changed
1	Megan Davis, Electric Love Tattoo		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.	DHHS agrees with this change. Changed to: "Maintain fingernails in a manner to allow thorough cleaning and to prevent glove tears."	R 333.13109 (7)

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2	George Egy Equilibrium Piercing at Honest to Goodness		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.	DHHS agrees with this change. Recommend updating the following wording: R 333.13116 7(d): Processed through an appropriately covered ultrasonic cleaner	R 333.13116 7(d)

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3	Captain Wally, Organization Unknown		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?	DHHS agrees with this change. 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.	R 333.13113

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4	Madelyn McFarland, Organization Unknown		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. Removing Rule 333.13109(12)(f) (v)	R 333.13109
5	Heather Beerman, Macomb County Health Department		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 agrees. Rule updated to add suggested language.	R 333.13114 (4)
6	Heather Beerman, Macomb County Health Department		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 agrees. Rule updated to add aquarium language and new subrule added re plants.	R 333.13119 (30)

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7	Heather Beerman, Macomb County Health Department		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"	R 333.13101 (z)
8	Heather Beerman, Macomb County Health Department		R333.13120 (5) (vi): for clarification and to prevent confusion, insert the wording: If "new and unused" jewelry or instruments are sterilized...	DHHS agrees. Updated rule for clarification.	R 333.13120 (5) (vi)

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9	Angela Parsons, Washtenaw County Health Department		<p>(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:</p> <ul style="list-style-type: none"> (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. <p>•Adds clarity that these items are single-use only.</p>	<p>DHHS agrees with this change. Added “ (viii) Stencils, including marking pens, pencils, or string, or other such materials.</p>	<p>R 333.13101 (xx)</p>

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10	Angela Parsons, Washtenaw County Health Department		(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.	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 - (bb)

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11	Angela Parsons, Washtenaw County Health Department		<p>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.</p>	<p>DHHS agrees with this change. "Should" changed to "must".</p>	R 333.13114

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12	Angela Parsons, Washtenaw County Health Department		<p>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.</p>	<p>DHHS agrees with this change. Distinction made in rule.</p>	R 333.13116

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13	Angela Parsons, Washtenaw County Health Department		(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).	DHHS agrees with this change. Subrule deleted.	R 333.13116 (14)
14	Angela Parsons, Washtenaw County Health Department		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.	DHHS agrees with this change, added "retail area" to beginning of rule.	R 333.13119

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15	Angela Parsons, Washtenaw County Health Department		(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.	R 333.13119(24) DHHS agrees with this change. “Handwashing sinks” added to the subrule.	R 333.13119 (24)
16	Leif Kolt, Owner, Black Candle Tattoo Company		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.	DHHS agrees with this recommendation. "Proof of minor's identification" added to the subrule.	R 333.13110 (2)(c)(i)

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17	Heather Beerman, Macomb County Health Department		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"	DHHS agrees with this recommendation. Subrule 3 added to rules : (3) 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."	R 333.13110
18	Heather Beerman, Macomb County Health Department		R333.13113 (25): replace the term "pigments or inks" with the term "products" in both places it appears	DHHS agrees with this change. Rule updated to change "pigments or inks" with "products".	R 333.13113 (25)

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19	Angela Parsons, Washtenaw County Health Department		(jj) "Operator" means a person that controls any interest in, operates, or manages a body art facility and is responsible for compliance with these (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 (strike) rules, whether or not actually performing body art activities. • Corrects terminology. • Corrects terminology.	DHHS agrees with change. Replace "regulations" with "rules".	R 333.13101 (jj)
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14.Date report completed:

3/11/2025