Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the rules and regulations listed below to remove the specific dollar value of all fees for licensing, laboratory and administrative services provided by the Department of Health from the individual regulations and reference all such fees to a new consolidated fee regulation (to be promulgated separately). These amendments are proposed pursuant to the authority contained in Public Law 2012-241, enacted by the General Assembly on 15 June 2012, and the relevant sections of the respective professional practice and licensure acts.

The following seventy-five (75) regulations are proposed to be amended:

1. Food Code
2. Rules and Regulations Establishing Educational and Experience Requirements for Registration as a Sanitarian
3. Rules and Regulations for Asbestos Control
4. Rules and Regulations for Bottled Water
5. Rules and Regulations for Certifying Analytical Laboratories
6. Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Services
7. Rules and Regulations for Lead Poisoning Prevention
8. Rules and Regulations for Licensing Assisted Living Residences
9. Rules and Regulations for Licensing Athletic Trainers
10. Rules and Regulations for Licensing Birth Centers
11. Rules and Regulations for Licensing Chemical Dependency Professionals
12. Rules and Regulations for Licensing Clinical Laboratories and Stations
13. Rules and Regulations for Licensing Clinical Social Workers and Independent Clinical Social Workers
14. Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants
15. Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers
16. Rules and Regulations for Licensing Hospice Care
17. Rules and Regulations for Licensing Interpreters for the Deaf
18. Rules and Regulations for Licensing Kidney Disease Treatment Centers
19. Rules and Regulations for Licensing Massage Therapists
20. Rules and Regulations for Licensing Mental Health Counselors and Marriage and Family Therapists
21. Rules and Regulations for Licensing Occupational Therapists and Occupational Therapy Assistants
22. Rules and Regulations for Licensing of Hospitals
23. Rules and Regulations for Licensing of Midwives
24. Rules and Regulations for Licensing of Nursing Facilities
25. Rules and Regulations for Licensing of Nursing Home Administrators
26. Rules and Regulations for Licensing Physical Therapists and Physical Therapist Assistants
27. Rules and Regulations for Licensing Psychologists
28. Rules and Regulations for Licensing Rehabilitation Hospital Centers

29. Rules and Regulations for Licensing Respiratory Care Practitioners
30. Rules and Regulations for Licensing Speech Pathologists and Audiologists
31. Rules and Regulations for Licensing Swimming and Wading Pools, Hot Tubs, and Spas
32. Rules and Regulations for Licensure and Discipline of Chiropractic Physicians
33. Rules and Regulations for Limited Medical Registration
34. Rules and Regulations for Radon Control
35. Rules and Regulations for the Certification of Administrators of Assisted Living Residences
36. Rules and Regulations for the Certification of Health Plans
37. Rules and Regulations for the Control of Radiation
38. Rules and Regulations for the Licensing of Freestanding Ambulatory Surgical Centers
39. Rules and Regulations for the Licensing of Freestanding Emergency Care Facilities
40. Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs
41. Rules and Regulations for the Licensing of Nursing Service Agencies
42. Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities
43. Rules and Regulations for the Licensing of Podiatrists
44. Rules and Regulations for the Licensing of Radiographers, Nuclear Medicine Technologists, Radiation Therapists and Radiologist Assistants
45. Rules and Regulations for the Licensure and Discipline of Physicians
46. Rules and Regulations for the Licensure of Barbers, Hairdressers/Cosmeticians, Manicurists, Estheticians, and Instructors
47. Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners
48. Rules and Regulations for the Licensure of Physician Ambulatory Surgery Centers and Podiatry Ambulatory Surgery Centers
49. Rules and Regulations for the Licensure of Physician Assistants
50. Rules and Regulations for the Licensure of Veterinarians
51. Rules and Regulations for the Registration of Body Piercing Technicians and Body Piercing Establishments
52. Rules and Regulations for the Registration of Distributors of Controlled Substances in Rhode Island
53. Rules and Regulations for the Registration of Tanning Facilities
54. Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors
55. Rules and Regulations for the Utilization Review of Health Care Services
56. Rules and Regulations Governing Vital Statistics
57. Rules and Regulations Pertaining to Certification of Managers in Food Safety
58. Rules and Regulations Pertaining to Dentists, Dental Hygienists, and Dental Assistants
59. Rules and Regulations Pertaining to Embalmers, Funeral Directors, and Funeral Service Establishments
60. Rules and Regulations Pertaining to Opticians
61. Rules and Regulations Pertaining to Optometrists
62. Rules and Regulations Pertaining to Permits for Screening Programs
63. Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers, and Distributors
64. Rules and Regulations Pertaining to Public Drinking Water
65. Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs
66. Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators

67. Rules and Regulations Pertaining to the Licensing of Dietitians/Nutritionists
68. Rules and Regulations Pertaining to the Medical Examiner System
69. Rules and Regulations Pertaining to the Newborn Metabolic, Endocrine, and Hemoglobinopathy Screening Program and the Newborn Hearing Loss Screening Program
70. Rules and Regulations Pertaining to the Processing and Distribution of Shellfish
71. Rules and Regulations Prescribing Minimum Standards for Processing, Storage and Transportation of Fish and Fishery Products
72. Rules and Regulations Related to the Licensure of Hearing Aid Dealers and Fitters
73. Rules and Regulations Related to the Medical Marijuana Program
74. Rules and Regulations Related to the Practice of Electrolysis
75. Rules and Regulations Relating to Emergency Medical Services

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Notice is hereby given in accordance with the provisions of §42-35-3(a)(2) of the Rhode Island General Laws, as amended, that the Director is affording all interested persons the opportunity to submit data, views, or arguments in writing on this matter. Opportunity for public hearing shall be granted if requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members. *Otherwise, no hearing shall be convened*. Should a hearing be requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members, *a hearing shall be scheduled only for the regulation(s) for which the request for hearing was received*. All regulations for which a public hearing is not requested will be filed with the Rhode Island Secretary of State pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, shortly after the 10 September 2012 deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 10 September 2012**. Such input or requests should be addressed to: Michael Fine, M.D., Director, Rhode Island Department of Health, Three Capitol Hill, Room #401, Providence, Rhode Island 02908-5097.

In the development of these amendments, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

Copies of all regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, Three Capitol Hill, Providence, Rhode Island 02908-5097, on the Secretary of State's website: http://www.sos.ri.gov/rules/, by calling 401-222-7767, or by e-mail to Bill.Dundulis@health.ri.gov.

Signed this 3rd day of August 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

RULES AND REGULATIONS

FOR THE REGISTRATION

OF TATTOO ARTISTS

AND TATTOO PARLORS

(R23-1-TAT)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health
October 1990

As Amended:

April 1992
December 1993

June 1999
November 2001

January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

December 2005
January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

September 2007
January 2012 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

August 2012 (Proposed)

COMPILER'S NOTES:
Proposed Additions: Underlined
Proposed Deletions: ~~Strikeouts~~

INTRODUCTION

These *Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors (R23-1-TAT)* are promulgated pursuant to the authority conferred under section 23-1-39 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting minimum requirements for the registration of tattoo artists and tattoo parlors in this state.

In accordance with the provisions of section 42-35-3 of the General Laws of Rhode Island, as amended, in the development of the regulations, consideration was given to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication or overlap was identified.

These amended rules and regulations shall supersede any other rules and regulations pertaining to tattoo artists and parlors promulgated by the Department of Health and filed with the Secretary of State.

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PART I ***Registration Requirements for Tattoo Artists***

Section 1.0 ***Definitions***

Wherever used in these rules and regulations, the terms listed below shall be construed as follows:

1.1 ***"Act"*** means section 23-1-39 of the General Laws entitled "Tattooing."

1.2 ***"Communicable disease"*** means any disease caused by an infectious agent which may be transmitted directly or indirectly from one individual to another.

1.3 ***"Director"*** means the Director of the Rhode Island Department of Health.

1.4 ***"Division***" means the Division of Professional Regulation at the Rhode Island Department of Health.

1.5 ***"Person"*** means any individual, trust or estate, partnership, corporation (including but not limited to associations, joint stock companies,) state, or political subdivision or instrumentality of the state.

1.6 ***"Registration agency"*** means the Rhode Island Department of Health. "Registration agency" and "licensing agency" are synonymous.

1.7 ***"Repigmentation"*** means recoloration of the skin as a result of the following:

a) dermabrasion, chemical peels, removal or resolution of birthmarks, vitiligo or other skin conditions which result in the loss of melanin to the skin;

b) scars as a result of surgical procedures, such as cosmetic facial surgery, mole or wart removal, cauterization, etc.;

c) recoloration to burn grafts and other skin irregularities as a result of burns or photo-damage;

d) recreation of an areola or nipple, following mastectomy; or

e) irregularly pigmented skin which may require cheek blush or other blending of pigments into the skin to camouflage.

1.8 ***"Aseptic technique"*** means the practice of preventing the transmission of infectious agents into the human body by using standard aseptic procedures.

1.9 ***"Tattoo"*** means to mark or color the skin by introduction of non-toxic dyes or pigments into the skin. For the purposes of these rules and regulations, *"tattooing"* includes cosmetic procedures such as eye lining, lip lining, or repigmentation, as defined herein.

1.10 ***"Tattoo artist"*** means an individual who is registered in this state to practice tattooing in accordance with the requirements herein.

1.11 ***"Tattoo parlor/shop***" means any establishment operated by any person for the purpose of offering or conducting tattooing.

Section 2.0 ***Registration Requirements***

2.1 Pursuant to section 23-1-39 of the Act, no person shall engage in the practice of tattooing or hold himself/herself as a tattoo artist 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 Chapter 5-37 of the Rhode Island General Laws, as amended, shall be exempt from this registration requirement. However, a physician engaged in the practice of tattooing in his/her private office shall be required to register the site as a tattoo parlor/shop and meet the requirements of Part II of the rules and regulations herein.

Section 3.0 ***Qualifications***

3.1 Any applicant seeking registration in this state must:

a) be over 18 years of age;

b) be of good moral character; *and*

c) demonstrate knowledge of aseptic tattooing technique via inspection, as indicated in section 5.0.

Section 4.0 ***Application and Registration Fee***

4.1 Application for registration shall be made on forms provided by the Division of Professional Regulation, Rhode Island Department of Health, including a request for inspection form, which shall be completed and submitted to the Division. Such application shall be accompanied by the following documents:

a) *For U.S citizens*: a certified copy of birth certificate;

For non-U.S citizens: proof of lawful entry into the United States and proof of lawful eligibility for employment in the United States;

b) A registration fee ~~of ninety dollars ($90.00) made payable by cash, check or money order to the General Treasurer, state of Rhode Island;~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health;*

c) A recent identification photograph of the applicant, head and shoulders, front view, approximately 2x3 inches in size; and,

d) A completed "Inspection Request" form.
Said inspection will be completed within ninety (90) days of application.

4.2 Any applicant who has not previously been issued a registration by the Department will be required to submit to a technique inspection, as set forth in section 5.0, before a registration shall be issued.

Section 5.0 ***Registration of Tattoo Artists***

5.1 *By Examination*

Applicants seeking registration as a tattoo artist shall be required to demonstrate aseptic tattooing technique via an examination administered by the Department, to test the applicant's fitness to engage in the practice of tattooing. Such examination shall test the applicant's knowledge and practices of infection control and such other areas as may be deemed necessary, and shall be administered upon completion and review of the application.

a) Applicants who have not satisfactorily met the application requirements herein relating to the examination described above will be given two (2) additional opportunities to demonstrate tattooing technique. Failure to meet all technique requirements will result in denial of registration.

b) Applicants wishing to reapply for registration may do so after a six (6) month waiting period between attempts at the examination.

Section 6.0 ***Issuance and Renewal of Registration and Fee***

6.1 The Director shall issue to applicants who have satisfactorily met the application and examination requirements herein, a registration to practice tattooing in the state. This registration, unless sooner suspended or revoked, shall expire on December 31st of each year.

6.2 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.

Every person so registered who desires to renew his/her registration shall file with the Division:

a) Such renewal application, completed and signed by the applicant; and,

b) The fee ~~of ninety dollars ($90.00) made payable by cash, check or money order to the General Treasurer, state of Rhode Island.~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

6.3 ***Lapsed Registration***

a) Any registrant who allows the registration to lapse may have same reinstated by submitting to the registration agency, an application and accompanying documents, as required in section 4.0 herein.

b) Any registrant whose registration lapses for two (2) or more years shall be required to submit to the practical examination of aseptic tattooing technique administered by the Department.

Section 7.0 ***Tattooing Practice***

7.1 A registered tattoo artist shall maintain sanitary and safe practice in accordance with prevailing standards contained herein.

7.2 ***Dyes, Pigments, and Stencils:***

a) All dyes and pigments shall be manufactured for the purpose of tattooing and used according to the manufacturer's specifications.

b) In preparing dyes or pigments, non-toxic materials shall be used.

c) Single-use, sterile, individual containers for dyes or pigments shall be used for each patron.

d) The stencil, unless composed of acetate, shall be used for a single tattoo procedure only. Acetate stencils may be disinfected and re-used.

7.3 ***Tattoo Procedures:***

A tattoo artist shall conduct his/her tattooing practice so as to prevent the transmission of communicable diseases from client to client and from artist to client. Tattoo artists shall maintain at least the following minimum standards in the practice of tattooing:

a) The area of the body to be tattooed, 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 tattooed.

b) Each tattoo artist shall wear a clean outer garment. If the garment is visibly contaminated with blood, it shall be changed between clients.

c) Before working on each client, each tattoo artist 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.

7.4 ***Tattoo Materials:***

a) All materials necessary for the tattooing process shall be set up on a single-use disposable sterile cloth (e.g., polycloth). All autoclaved/sterile packs shall be opened ready for use without touching the interior of the pack. Single-use or collapsible tubes shall be used for lubricants.

b) Any shaving shall be done with a single use razor blade or razor.

c) The skin shall be prepared first by thoroughly soaping with an antiseptic soap and rinsing with tap water. Following this cleansing, a germicidal solution (such as 70% isopropyl alcohol) shall be applied to the skin using a sterile swab.

d) Stencil transfer medium shall be applied (if applicable) using sterile swabs and prepared clean stencil shall be applied to the skin.

e) After applying the stencil, the tattoo artist shall remove and discard gloves and again wash and scrub his/her hands with soap and water and dry hands using paper towels.

f) Prior to commencing application of the tattoo, the tattoo artist shall then put on sterile gloves, which shall be used for a single tattooing procedure only.

g) If there is a need to rinse the tube and needle between colors, this shall be done with ninety-one percent (91%) isopropyl alcohol or sterile water in sterile single-use disposable containers or non-disposable sterilized containers.

h) As the tattoo operation progresses, any excess dye or pigment applied to the skin shall be removed with sterile, lint-free material.

i) The tattoo shall be allowed to dry. After drying, a sterile lubricant shall be applied from a collapsible metal or plastic tube, and the entire area covered with a piece of sterile gauze.

j) Needles shall be immediately deposited into a puncture-resistant infectious waste sharps container. Needles shall not be reused.

k) All used needles and any blood soaked material shall be handled and discarded according to the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste (DEM-DAH-MW-01-92)* of reference 1. All other material shall be discarded appropriately.

l) All tubes and line bars must be rinsed with tap water and then placed in a germicidal solution (e.g., Cidex) or directly into an ultrasonic cleaner.

m) Sterile gloves shall be removed and discarded in accordance with the requirements of the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste (DEM-DAH-MW-01-92)* of reference 1.

n) Immediately after tattooing, the tattoo artist shall advise the patron--both verbally and in writing--on the care of the tattoo and shall instruct the patron to consult a physician at the first sign of infection (such as excessive pain, redness, swelling, or discharge) in the area of the tattoo.

o) All work surfaces and non-autoclaved equipment (e.g., tattoo machine and pliers) used in the tattoo 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 artist shall wash his/her hands with a germicidal soap after cleaning work surfaces and equipment.

p) After tattooing, the remaining unused dye or pigment shall be discarded in accordance with the requirements of the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste (DEM-DAH-MW-01-92)* of reference 1. Non-disposable individual containers shall be resterilized, according to specifications in section 7.7 herein.

7.5 ***Tattoo Equipment:***

a) A set of individual, single-use sterilized needle bars shall be used for each new patron. Before each use, the open end of the needle tube of the tattooing machine shall be cleaned and sterilized in an approved manner as set forth in 7.6 below.

b) The needle tubes shall be cleaned by use of an ultrasonic cleaner and sterilizer. Immersion time for all equipment shall be five (5) minutes. Ultrasonic cleaning tank detergent shall be changed daily. The tank shall be scrubbed thoroughly with a ninety-one percent (91%) solution of isopropyl alcohol between detergent changes.

c) Adequate numbers of sterilized needles and tubes shall be on hand for each operator for the entire day or night operation, based on the average number of clients per day. Failure to maintain an adequate number of sterilized needles and tubes shall require the artist to cease operations until such time as an adequate number becomes available.

d) All items of equipment which may be touched during the tattoo process such as clip cords, machine heads, spray bottles, etc., shall be capable of being sheathed easily with a disposable impervious covering.

e) Storage cabinets shall be maintained in a sanitary condition and all instruments, dyes, pigments, stencils and other equipment, when not in use, shall be stored in an orderly manner.

7.6 ***Sterilization:***

a) ***Sterilizing of instruments:***

Operational sterilizers shall be available in each tattoo parlor. All needle bars, grips and needle tubes 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.

b) 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.

i) 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 tattoo artist who conducted the inspection.

c) 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.

7.7 ***Restrictions:***

7.7.1 Chapter 11-9-15 of the General Laws, entitled "Tattooing of Minors", prohibits the tattooing of minors (persons under the age of eighteen [18]) in this state.

Section 8.0 ***Denial, Suspension or Revocation of Registration***

8.1 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.

8.2 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.

8.3 The applicant or registrant shall be given an opportunity for a prompt and fair hearing in accordance with the provisions of Chapter 42-35 of the General Laws of Rhode Island, as amended, and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP).*

8.4 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 sections 23-1-20 through 23-1-25 of the Rhode Island General Laws, as amended.

Section 9.0 ***Severability***

9.1 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.

PART II ***Registration Requirements for Tattoo Parlors/Shops***

Section 10.0 ***Administration***

10.1 The Department of Health shall be responsible for the administrative functions required to implement the provisions of section 23-1-39 of the General Laws of Rhode Island, as amended, and the rules and regulations herein, as they apply to the registering of tattoo parlors/shops.

Section 11.0 ***Registration Requirements***

11.1 No person, acting severally or jointly with any other person, shall conduct, maintain, or operate a tattoo parlor/shop in the state without a registration issued by the registration agency.

11.2 No person, firm, partnership or corporation shall describe its services in any manner under the title "Tattoo" unless such services as defined herein are performed in a parlor/shop that is registered with the Department of Health in accordance with the provisions of the rules and regulations for registering of tattoo parlors/shops.

Section 12.0 ***Application for Registration and Fee***

12.1 Application for a registration to conduct, maintain, or operate a tattoo parlor/shop 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 tattoo parlor/shop.

12.2 The application for registration shall include:

a) the address of the place of business;

b) the address of the owner and/or manager;

c) the name of the manager who shall be registered with the Rhode Island Department of Health;

d) written documentation that the owner and/or manager is at least eighteen (18) years of age;

e) criminal convictions of the corporation, owner and/or manager, if any, except minor traffic violations;

f) a list of all owners and partners;

g) a list of owners holding fifty percent (50%) or more stock;

h) the fee ~~of ninety dollars ($90.00) made payable by cash, check or money order to the General Treasurer, state of Rhode Island~~; as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

i) a list of all equipment;

j) a floor plan of the tattoo parlor/shop;

k) appropriate certificates of compliance with all applicable local and state codes;

l) 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 patrons and employees.

Section 13.0 ***Issuance and Renewal of Registration and Fee***

13.1 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.

13.2 A registration shall be issued only to a specific applicant for a specific location, and shall not be transferable.

13.3 The annual registration renewal fee ~~of ninety dollars ($90.00) made payable by cash, check or money order to the General Treasurer, state of Rhode Island, ;~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany the application for the annual license renewal.

13.4 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 ~~section 12.0 herein~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* and other such documentation as deemed appropriate.

Section 14.0 ***Change of Ownership, Operation and/or Location***

14.1 When a change of ownership, operation, location, or discontinuation of business of a tattoo parlor/shop is contemplated, the owner and/or manager shall notify the registration agency in writing prior to the proposed action.

14.2 When there is a change in ownership, or in the operation or control of a registered tattoo parlor/shop, 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.

Section 15.0 ***Inspections***

15.1 Duly authorized representatives of the registration agency shall, at all reasonable times, have the authority to enter upon any and all parts of the premises on which any tattoo parlor/shop is located (and of the premises appurtenant thereto) to make any investigation or inspection to determine conformity with the statutory and regulatory provisions herein.

15.2 Refusal to permit inspection or investigation shall constitute valid grounds for registration denial or revocation.

15.3 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.

a) Applicants wishing to reapply for registration may do so after a one (1) year waiting period.

Section 16.0 ***General Operational Requirements***

16.1 ***Personnel***

a) Each facility shall submit to the registration agency the name of the owner and/or manager who shall be responsible for:

i) The management and control of the operation and the maintenance of the facility;

ii) 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,

iii) The establishment of policies and procedures, including but not limited to, the practice of tattooing, sanitation protocols, infection control, the nature of services provided and other such policies and procedures as may be required.

b) Persons engaged in the practice of tattooing shall comply with the Occupational Safety and Health Administration's (OSHA) Blood Borne Pathogen Standards of reference 4 in order to protect themselves (and any employees) against occupational exposure to bloodborne pathogens. Compliance shall include, but not be limited to:

i) a written exposure control plan;
ii) staff training;
iii) engineering and work practice controls;
iv) adoption of universal precautions;
v) personal protective equipment;
vi) hepatitis B vaccinations; and,
vii) a protocol for evaluation in the event that an exposure occurs.

c) Only individuals who hold current Rhode Island registration as a tattoo artist or a duly licensed physician shall practice tattooing and use the title "tattoo artist" in accordance with the regulatory provisions of the rules and regulations herein.

d) If the owner and/or manager of a facility is not a registered tattoo artist, a registered tattoo artist 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 tattooing. The name of said designated individual shall be submitted to the registration agency.

16.2 ***Environment and Maintenance***

Each tattoo parlor/shop shall be required to meet the following provisions:

a) The facility shall be maintained in a sanitary condition free from hazards.

b) All walls, ceilings, and floors shall be smooth and easily cleanable and have a non-absorbent surface. There shall be no carpeting in the tattooing area. Walls and ceilings are to be painted in a light color. Walls, ceilings and floors shall be kept clean and in good repair, free from dust and debris. Floors, walls or ceilings shall not be swept or cleaned while tattooing is being performed.

c) Adequate light and ventilation shall be provided.

d) Each tattoo parlor/shop shall contain a hand sink in the tattooing area for the exclusive use of the tattoo artist. 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.

i) In facilities in which there are multiple tattooing workstations, there shall be a minimum of one sink per every two workstations. Each sink shall meet the requirements of section 16.2(d) above.

e) Toilets and hand-washing facilities shall be provided in convenient locations in conformity with the Rhode Island State Building Code of reference 2.

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 tattooing 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 tattooing area.

16.3 ***Waste Disposal***

Medical waste shall be managed in accordance with the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste (DEM-DAH-MW-01-92*) of reference 1.

Section 17.0 ***Retention of Records***

17.1 The owner of a tattooing parlor/shop shall maintain proper records for each patron. A record of each patron shall include:

a) the date on which he/she was tattooed;

b) his/her name, address, telephone number and age;

i) photo identification as proof of age (e.g., driver's license, military identification), a copy of which shall be maintained for each patron;

c) the location and design of the tattoo; and,

d) the name of the tattoo artist.

17.2 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 section 17.1(b)(i) above) 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 patron was tattooed.

Section 18.0 ***Denial, Suspension or Revocation of Registration***

18.1 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.

18.2 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.

18.3 The applicant or registrant shall be given an opportunity for a prompt and fair hearing in accordance with the provisions of Chapter 42-35 of the General Laws of Rhode Island, as amended, and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP).*

18.4 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 sections 23-1-20 through 23-1-25 of the Rhode Island General Laws, as amended.

Section 19.0 ***Deficiencies and Plans of Correction***

19.1 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 section 23-1-21 of the General Laws of Rhode Island, as amended.

19.2 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.

19.3 The licensing agency shall be required to approve or reject the plan of correction submitted by a facility in accordance with section 19.2 (above) within fifteen (15) days of receipt of the plan of correction.

19.4 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 section 19.2 above, 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 section 18.0 herein.

19.5 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 Chapter 42-35 of the General Laws, as amended, and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP).*

Section 20.0 ***Variance Procedures***

20.1 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.

20.2 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.

20.2.1 Upon the filing of each request for variance with the licensing agency, and within thirty (30) days 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 section 19.0 herein.

Section 21.0 ***Severability***

21.1 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.

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REFERENCES

1. *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island (DEM-DAH-MW-01-92),* Rhode Island Department of Environmental Management, April 1994 and subsequent amendments thereto.

2. *The Rhode Island State Building Code*, Chapter 23-27.3 of the Rhode Island General Laws, as amended.

3. *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP),*Rhode Island Department of Health, April 2004 and subsequent amendments thereto.

4. *Blood Borne Pathogens*, Occupational Safety and Health Administration (OSHA), 29 *Code of Federal Regulations* Part 1910--1000 to end, section 1910.1030, pp. 316--326, July 1, 1994 and subsequent amendments thereto.

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