

A bill for an act

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

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

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

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

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

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

Subd. 4. **Apprentice.** "Apprentice" means an individual working under the direct supervision of a licensed technician in a licensed body art establishment according to the requirements under section 146B.04.

Subd. 5. **Body art.** "Body art" means physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, and cosmetic tattooing. This definition of body art does not include piercing of the outer perimeter or lobe of the ear using a presterilized single-use stud-and-clasp ear piercing system. This definition of body art does not include practices that are part of a medical procedure performed by board-certified medical or dental personnel including, but not limited to, implants under the skin.

2.1 Subd. 6. **Body art establishment.** "Body art establishment" means any place or
2.2 premise, whether public or private, temporary or permanent in nature or location, where
2.3 the practice of body art, whether or not for profit, is performed.

2.4 Subd. 7. **Body piercing.** "Body piercing" means the penetration or puncturing of
2.5 human skin by any method for the purpose of inserting jewelry or other objects in or
2.6 through the human body. This definition does not include any procedure performed by
2.7 a licensed or registered health professional if the procedure is within the professional's
2.8 scope of practice.

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

2.10 Subd. 9. **Contaminated waste.** "Contaminated waste" means: any liquid or
2.11 semiliquid blood or other potentially infectious materials; contaminated items that would
2.12 release blood or other potentially infectious materials in a liquid or semiliquid state
2.13 if compressed; items that are caked with dried blood or other potentially infectious
2.14 materials and are capable of releasing these materials during handling; and sharps and any
2.15 wastes containing blood and other potentially infectious materials, as defined in Code of
2.16 Federal Regulations, title 29, section 1910.1030, known as "Occupational Exposure to
2.17 Bloodborne Pathogens."

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

2.19 Subd. 11. **Disinfection.** "Disinfection" means the destruction of disease-causing
2.20 microorganisms on inanimate objects or surfaces, rendering the objects safe for use or
2.21 handling.

2.22 Subd. 12. **Equipment.** "Equipment" means all machinery, including fixtures,
2.23 containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks,
2.24 and all other apparatus and appurtenances used in the operation of a body art establishment.

2.25 Subd. 13. **Establishment plan.** "Establishment plan" means a scale drawing of the
2.26 establishment's layout illustrating how the establishment complies with the requirements
2.27 of this chapter.

2.28 Subd. 14. **Guest artist.** "Guest artist" means an individual who performs body art
2.29 procedures according to the requirements under section 146B.04.

2.30 Subd. 15. **Hand sink.** "Hand sink" means a lavatory equipped with hot and cold
2.31 water held under pressure, used solely for washing hands, wrists, arms, or other portions
2.32 of the body.

2.33 Subd. 16. **Hot water.** "Hot water" means water at a temperature of at least 110
2.34 degrees Fahrenheit.

2.35 Subd. 17. **Jewelry.** "Jewelry" means any personal ornament inserted into a newly
2.36 pierced area.

3.1 Subd. 18. **Liquid chemical germicide.** "Liquid chemical germicide" means a
3.2 disinfectant or sanitizer registered with the Environmental Protection Agency.

3.3 Subd. 19. **Operator.** "Operator" means any individual who controls, operates,
3.4 or manages body art activities at a body art establishment and who is responsible for
3.5 compliance with these regulations, whether actually performing body art activities or not.

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

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

3.13 Subd. 22. **Sanitization.** "Sanitization" means a process of reducing the numbers of
3.14 microorganisms on clean surfaces and equipment to a safe level.

3.15 Subd. 23. **Safe level.** "Safe level" means not more than 50 colonies of
3.16 microorganisms per four square inches of equipment or procedure surface.

3.17 Subd. 24. **Sharps.** "Sharps" means any object, sterile or contaminated, that may
3.18 purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited
3.19 to, presterilized single-use needles, scalpel blades, and razor blades.

3.20 Subd. 25. **Sharps container.** "Sharps container" means a closed, puncture-resistant,
3.21 leak-proof container, labeled with the international biohazard symbol, that is used for
3.22 handling, storage, transportation, and disposal.

3.23 Subd. 26. **Single use.** "Single use" means products or items intended for onetime
3.24 use which are disposed of after use on a client. This definition includes, but is not limited
3.25 to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and
3.26 sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink
3.27 cups, and protective gloves.

3.28 Subd. 27. **Standard precautions or universal precautions.** "Standard precautions
3.29 or universal precautions" means the guidelines and controls published by the Centers for
3.30 Disease Control and Prevention (CDC) as "guidelines for prevention of transmission
3.31 of human immunodeficiency virus and hepatitis B virus to health care and public
3.32 safety workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989,
3.33 Vol. 38, No. S-6, and as "recommendation for preventing transmission of human
3.34 immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive
3.35 procedures," in MMWR, July 12, 1991, Vol. 40, No. RR-Subd. T.

4.1 Subd. 28. **Sterilization.** "Sterilization" means a process resulting in the destruction
4.2 of all forms of microbial life, including highly resistant bacterial spores.

4.3 Subd. 29. **Tattooing.** "Tattooing" means any method of placing ink or other
4.4 pigments into or under the skin or mucosa with needles or any other instruments used to
4.5 puncture the skin, resulting in permanent coloration of the skin or mucosa. This definition
4.6 includes cosmetic tattooing.

4.7 Subd. 30. **Technician.** "Technician" means any individual who conducts or
4.8 practices body art procedures at a body art establishment.

4.9 Subd. 31. **Temporary body art establishment.** "Temporary body art establishment"
4.10 means any place or premise operating at a fixed location where an operator performs body
4.11 art procedures for no more than 21 days in conjunction with a single event or celebration.

4.12 Sec. 2. **[146B.02] ESTABLISHMENT LICENSE PROCEDURES.**

4.13 Subdivision 1. **General.** Beginning January 1, 2010, no person acting generally
4.14 or jointly with any other person may maintain, own, or operate a body art establishment
4.15 in the state without an establishment license issued by the commissioner in accordance
4.16 with this chapter.

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

- 4.20 (1) the name of the owner and operator of the establishment;
4.21 (2) certificates of compliance with all applicable local and state codes;
4.22 (3) a description of the general nature of the business;
4.23 (4) a copy of an establishment plan that provides sufficient detail to ensure
4.24 compliance with the requirements of this chapter; and
4.25 (5) any other information deemed necessary by the commissioner.

4.26 (b) Upon approval, the commissioner shall issue an establishment license. The
4.27 license is valid commencing on the date of issuance for three years after which time the
4.28 license may be renewed upon approval by the commissioner.

4.29 Subd. 3. **Inspection.** (a) Before issuing a license, the commissioner shall conduct an
4.30 inspection of the body art establishment and a review of any records necessary to ensure
4.31 that the standards required under this chapter are met.

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

5.1 Subd. 4. **Location restricted.** No person may perform body art procedures at
5.2 any location other than a licensed body art establishment except as permitted under
5.3 subdivision 6.

5.4 Subd. 5. **Transfer and display of license.** A body art establishment license must
5.5 be issued to a specific person and location and is not transferable. A valid license must
5.6 be prominently displayed onsite.

5.7 Subd. 6. **Temporary events permit.** (a) An owner or operator of a temporary
5.8 body establishment shall submit an application for a temporary events permit to the
5.9 commissioner at least 14 days before the start of the event. The application must include
5.10 the specific days and hours of operation. The owner or operator shall comply with the
5.11 requirements of this chapter.

5.12 (b) The temporary events permit must be prominently displayed at the location.

5.13 (c) The temporary events permit, if approved, must be valid for the specified dates
5.14 and hours listed on the application. No temporary events permit may be issued for longer
5.15 than a 21-day period.

5.16 Subd. 7. **Establishment information.** The following information must be kept on
5.17 file for two years on the premises of the establishment and must be made available for
5.18 inspection upon request by the commissioner:

5.19 (1) a description of all body art procedures performed by the establishment;

5.20 (2) an inventory of instruments, body jewelry, sharps, inks, or pigments used for all
5.21 procedures, including the names of manufacturers and serial and lot numbers;

5.22 (3) copies of the spore tests conducted in the sterilizer; and

5.23 (4) the following information for each technician apprentice or guest artist employed
5.24 or performing body art procedures in the establishment:

5.25 (i) name;

5.26 (ii) address;

5.27 (iii) telephone number;

5.28 (iv) date of birth;

5.29 (v) copy of an identification photo;

5.30 (vi) duties performed; and

5.31 (vii) license number or apprenticeship or guest artist registration number.

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

5.33 Subdivision 1. **Licensure required.** Effective January 1, 2010, no individual may
5.34 perform body art procedures unless the individual holds a valid technician license issued
5.35 by the commissioner under this chapter, except as provided in subdivision 3.

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

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

(1) a physician licensed under chapter 147;

(2) a nurse licensed under sections 148.171 to 148.285;

(3) a chiropractor licensed under chapter 148;

(4) an acupuncturist licensed under chapter 147B;

(5) a physician's assistant registered under chapter 147A;

(6) a cosmetologist licensed under chapter 154; or

(7) a dental professional licensed or registered under chapter 150A.

(b) An individual registered as an apprentice or guest artist under section 146B.04 may perform body art procedures in accordance with the requirements of section 146B.04 without a technician's license.

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

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

(2) all fees required under section 146B.10;

(3) proof of completing a minimum of 200 hours of supervised training as an apprentice under section 146B.04;

(4) proof of having satisfactorily completed a course approved by the commissioner on bloodborne pathogens, the prevention of disease transmission, infection control, and aseptic technique. Courses to be considered for approval by the commissioner may include those administered by one of the following:

(i) the American Red Cross;

(ii) United States Occupational Safety and Health Administration (OSHA); or

(iii) the Alliance of Professional Tattooists; and

(5) any other information requested by the commissioner.

(b) Until January 1, 2011, the supervised training requirement under paragraph (a), clause (3), shall be waived by the commissioner if the applicant submits evidence to the commissioner that the applicant has, at a minimum, 200 hours of performing body art procedures within the last five years.

7.1 Subd. 5. **Action on licensure applications.** The commissioner shall notify the
7.2 applicant in writing of the action taken on the application. If licensure is denied, the
7.3 applicant must be notified of the determination and the grounds for it, and the applicant
7.4 may request a hearing on the determination by filing a written statement with the
7.5 commissioner within 20 days after receipt of the notice of denial. After the hearing, the
7.6 commissioner shall notify the applicant in writing of the decision.

7.7 Subd. 6. **License by reciprocity.** The commissioner shall issue a technician's license
7.8 to a person who holds a current license, certification, or registration from a municipality
7.9 located within the state or from another jurisdiction if the commissioner determines that
7.10 the standards for licensure, certification, or registration in the other jurisdiction meets or
7.11 exceeds the requirements for licensure stated in this chapter and a letter is received from
7.12 that jurisdiction stating that the applicant is in good standing.

7.13 Subd. 7. **Licensure term; renewal.** A technician's license is valid for one year from
7.14 the date of issuance and may be renewed upon payment of the renewal fee established
7.15 under section 146B.10.

7.16 Subd. 8. **Transfer and display of license.** A license issued under this section is
7.17 not transferable to another individual. A valid license must be located at the site and
7.18 available to the public upon request.

7.19 **Sec. 4. [146B.04] APPRENTICESHIP AND GUEST ARTISTS.**

7.20 Subdivision 1. **General.** Before an individual may begin an apprenticeship or work
7.21 as a guest artist, a licensed technician shall register the apprentice or guest artist with the
7.22 commissioner by submitting the name of the apprentice or guest artist to the commissioner
7.23 on a form provided by the commissioner. The form must include:

7.24 (1) the name of the apprentice or guest artist;

7.25 (2) the name of the licensed technician supervising the apprenticeship or sponsoring
7.26 the guest artist; and

7.27 (3) the starting and anticipated completion dates of the apprenticeship or the dates
7.28 the guest artist will be working.

7.29 Subd. 2. **Supervision.** An apprentice shall complete a minimum of 200 hours of
7.30 training under the direct supervision of a licensed technician. For purposes of this chapter,
7.31 "direct supervision" means that a licensed technician is present when the apprentice is
7.32 performing body art procedures.

7.33 Subd. 3. **Guest artists.** A guest artist may not conduct body art procedures for more
7.34 than 30 days per calendar year per licensed establishment. If the guest artist exceeds this
7.35 time period, the guest artist shall apply for a technician's license.

Sec. 5. **[146B.05] GROUNDS FOR EMERGENCY CLOSURE.**

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

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

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

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

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

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

(6) evidence of contamination, filthy conditions, untrained staff, or poor personal hygiene;

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

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

(9) failure to maintain required records;

(10) failure to use gloves as required;

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

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

(13) evidence of a positive spore test on the sterilizer.

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

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

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

(b) There must be no less than 45 square feet of floor space for each procedure area in the body art establishment.

(c) The procedure area must be separated from the bathroom, retail sales area, hair salon area, or any other area that may cause potential contamination of work surfaces.

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

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

(f) The establishment must have a readily accessible hand sink that is not in a public restroom and is equipped with:

(1) potable hot and cold running water under pressure;

(2) liquid hand soap;

(3) single-use paper towels; and

(4) a garbage can with a hands-free lid.

(g) The establishment must have at least one available bathroom equipped with a toilet and a hand lavatory, which must be supplied with:

(1) potable hot and cold running water under pressure;

(2) liquid hand soap;

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

(4) a garbage can with a hands-free lid;

(5) a self-closing door; and

(6) adequate ventilation.

(h) An artificial light source equivalent to 20-foot candles at three feet above the floor.

(i) At least 100-foot candles of light must be provided at the level where body art procedures are performed, where sterilization takes place, and where instruments and sharps are assembled.

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

(k) All walls and floors must be free of open holes or cracks and be washable.

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

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

(b) Jewelry used as part of a body piercing procedure must be made of surgical implant-grade stainless steel, solid 14-karat or 18-karat white or yellow gold, niobium, titanium, or platinum, or a dense low-porosity plastic.

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

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

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

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

10.5 (g) Steam heat sterilization units must be operated according to the manufacturer's
10.6 specifications.

10.7 (h) At least once a month, but not to exceed 30 days between tests, a spore test must
10.8 be conducted on the sterilizer to ensure that it is working properly. If a positive spore test
10.9 result is received, the sterilizer may not be used until a negative result is obtained.

10.10 (i) All inks and other pigments used in a body art procedure must be specifically
10.11 manufactured for tattoo procedures. Approved inks and pigments may be diluted with
10.12 distilled water or alcohol.

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

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

10.20 (l) Single-use towels or wipes must be provided to the client. These towels must be
10.21 dispensed in a manner that precludes contamination and disposed of in a washable garbage
10.22 container with a hands-free lid and a liner.

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

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

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

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

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

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

11.1 (c) Whenever it is necessary to shave the skin, a new disposable razor must be
11.2 used for each client.

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

11.5 (e) Single-use gloves of adequate size and quality to preserve dexterity must be
11.6 used for touching clients, for handling sterile instruments, or for handling blood or body
11.7 fluids. Nonlatex gloves must be provided for use with clients or employees who request
11.8 them. Gloves must be changed if a glove becomes damaged or comes in contact with
11.9 any nonclean surface or objects or with a third person. At a minimum, gloves must be
11.10 discarded after the completion of a procedure on a client. Hands and wrists must be
11.11 washed before putting on a clean pair of gloves and after removing a pair of gloves.
11.12 Gloves may not be reused.

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

11.15 (b) Technicians must scrub their hands and wrists thoroughly for 20 seconds before
11.16 and after performing a body art procedure. Technicians must also wash hands after contact
11.17 with the client receiving the procedure or after contact with potentially contaminated
11.18 materials.

11.19 (c) Technicians must wear clean clothing and use a disposable barrier, such as an
11.20 apron, when performing body art procedures.

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

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

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

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

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

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

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

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

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

12.8 (3) a valid passport;

12.9 (4) a resident alien card; or

12.10 (5) a tribal identification card.

12.11 (b) No technician shall tattoo or pierce any individual under the age of 18 years
12.12 unless the individual provides written parental consent. The consent must include both
12.13 the custodial and noncustodial parents, where applicable. Nipple and genital piercing or
12.14 tattooing is prohibited on an individual under the age of 18 years regardless of parental
12.15 consent.

12.16 (c) Before performing any body art procedure, the technician must provide the client
12.17 with a release form that indicates whether the client has:

12.18 (1) diabetes;

12.19 (2) a history of hemophilia;

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

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

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

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

12.27 The technician shall ask the client to sign and date the release form confirming that the
12.28 information listed on the form was provided.

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

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

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

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

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

(2) that a piercing may leave scarring.

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

(1) the date of the procedure;

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

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

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

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

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

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

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

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

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

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

Subdivision 1. **Investigations of complaints.** The commissioner may initiate an investigation upon receiving a signed complaint or other signed written communication that alleges or implies that an individual or establishment has violated this chapter or the

14.1 rules adopted according to this chapter. According to section 214.13, subdivision 6, in
14.2 the receipt, investigation, and hearing of a complaint that alleges or implies an individual
14.3 or establishment has violated this chapter, the commissioner shall follow the procedures
14.4 in section 214.10.

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

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

14.12 (1) intentionally submitted false or misleading information to the commissioner;

14.13 (2) failed, within 30 days, to provide information in response to a written request,
14.14 via certified mail, by the commissioner;

14.15 (3) violated any provision of this chapter;

14.16 (4) failed to perform services with reasonable judgment, skill, or safety due to the
14.17 use of alcohol or drugs, or other physical or mental impairment;

14.18 (5) aided or abetted another person in violating any provision of this chapter;

14.19 (6) been or is being disciplined by another jurisdiction, if any of the grounds for the
14.20 discipline are the same or substantially equivalent to those under this chapter;

14.21 (7) not cooperated with the commissioner in an investigation conducted according to
14.22 subdivision 1;

14.23 (8) advertised in a manner that is false or misleading;

14.24 (9) engaged in conduct likely to deceive, defraud, or harm the public;

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

14.27 (11) obtained money, property, or services from a client through the use of undue
14.28 influence, high pressure sales tactics, harassment, duress, deception, or fraud; or

14.29 (12) failed to refer a client for medical evaluation or to other health care professionals
14.30 when appropriate or when a client indicated symptoms associated with diseases that
14.31 could be medically or surgically treated.

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

14.35 (1) refuse to grant or renew licensure;

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

15.1 (3) revoke licensure;

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

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

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

15.13 (1) perform body art procedures;

15.14 (2) use titles protected under this chapter; and

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

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

15.22 Sec. 9. **[146B.09] MUNICIPAL REGULATION.**

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

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

15.27 Subdivision 1. **Annual licensing fees.** (a) The fee for the initial technician licensure
15.28 and annual licensure renewal is \$.....

15.29 (b) The fee for the establishment licensure is \$.....

15.30 (c) The fee for a temporary body art establishment permit renewal is \$.....

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

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

- 16.1 Sec. 11. EFFECTIVE DATE.
- 16.2 Sections 1 to 10 are effective August 1, 2010.