

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 46

SAFETY, SANITATION AND STERILIZATION RELATING TO BODY
ART FACILITIES

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NEBRASKA HEALTH AND HUMAN PROCEDURES
REGULATION AND LICENSURE

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 46 SAFETY, SANITATION AND STERILIZATION RELATING TO BODY ART FACILITIES

46-001 SCOPE AND AUTHORITY: These regulations apply to the safe practice of body art within body art facilities defined in Neb. Rev. Stat. §§ 71-340 through 71-3,238. In order to be properly credentialed with the Department of Health and Human Services Regulation and Licensure, the owners of facilities, body branders, body piercers, permanent color technicians, and tattoo artists must comply with these regulations.

46-002 DEFINITIONS

Act means Neb. Rev. Stat. §§71-340 to 71-3,238, known as the Nebraska Cosmetology Act.

Aftercare means written instructions given to the client, about caring for the body art and surrounding area.

Antiseptic means an agent that inhibits the growth and multiplication of, or destroys, disease causing microorganisms on the skin or mucosa.

Aseptic techniques means methods used in body art procedures to prevent contamination of a pierced area by microorganisms.

Autoclave means a sterilization device using steam, heat and pressure which meets the standards of American Society for Mechanical Engineering (ASME).

Body art means body piercing, branding, permanent color technology, and tattooing.

Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Client means any person with whom the body artist has an agreement to provide body art.

Closed/covered receptacle, container, bottles and/or drawer means fitting tightly with a lid, door, or shutting of a drawer and may have vents.

Conspicuous place means reception area, clinical area, or any area where visible and accessible to the public.

Disinfection means the destruction of disease causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

Equipment/Furniture means those items needed to operate an facility which are usually considered stationary, for example, chairs, cabinets, sinks, stations, etc.

Electrical appliances means portable electric powered appliances.

Gloves a covering for the hand having separate sections for each finger that is single use, sanitary, and is disposable medical grade.

Infectious waste means:

1. Blood and body fluids in a liquid or semi-liquid state;
2. Items contaminated with blood or body fluids, which, if compressed or disturbed, may release liquid or semi-liquid blood or body fluids;
3. Sharps which have been used in performing body art.
4. Other waste which contains pathogenic microbial agents or other biologically active materials in sufficient concentrations that exposure to the waste directly or indirectly creates a significant risk of disease.

Instrument/tool means hand pieces, needles, and other tools that may come in contact with a customer's body or be exposed to body fluids during body art procedures.

Minor means any person who has not attained the age of 18 years.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 46.

Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Practitioner means a person who performs any or all of the practices of body art.

Sanitize means the application of reducing microorganisms to a safe level.

Sharps means any rigid object used for the purpose of puncturing, lacerating, or penetrating the skin or mucosa.

Sharps container means a rigid, leak and puncture resistant, and labeled container, manufactured for the containment of sharps. Labeling must include the international biohazard symbol.

Single use means products or items that are intended for one-time, one-person use and are disposed of after use on each customer.

Sterilization means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

Supplies/materials means cotton balls/cotton pads or other similar items.

Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

46-003 DOCUMENTS POSTED: The owner must ensure that the following documents are posted in each facility in a conspicuous place:

1. A copy of the regulations governing sanitation and safety for the information and guidance of all persons employed and for the general public;
2. The most recent inspection rating sheet for the information of the general public and employees; and
3. The most current licensure renewal card for each person practicing within the facility, for public viewing (photocopies are not acceptable).
4. Pamphlets or literature explaining body art aftercare.

46-004 CLIENT RECORDS: In order for the licensee to properly assess the client's condition for receiving body art procedures and not violate the client's rights or confidential medical information, the licensee must obtain the following information from the client:

1. Name, Address, Date of Birth, and ID # (drivers license, military ID, State ID, passport, etc) of client;
2. Any known allergies; and
3. Any condition that may affect/hamper healing.

In addition to the information collected from the client, the client record must include:

1. The name of the body artist who performed the procedure;
2. The date of the procedure;
3. The location of the procedure on the client's body;

4. A description of the type of procedure provided;
5. Consent form for all persons under 18 years of age.

46-004.01 Record Keeping and Retention Schedule: The owner must ensure that the following records are kept and retained as follows and available to the inspector:

1. Photo identification of each person providing body art procedures;
2. Client records, which must be maintained in a confidential manner, and be retained for 3 years; and
3. Consent forms for persons under the age of 18 which must be kept for 5 years.

46-005 PHYSICAL STRUCTURE: The owner must ensure that the facility is well lighted, well ventilated and kept in a clean, orderly, sanitary condition at all times.

46-005.01 Surfaces: All walls, floors and all procedure surfaces in rooms or areas where body art procedures are performed must be smooth, washable, and in good repair.

46.005.02 Address: All body art facilities must have a dedicated physical address.

46-005.03 Entrance and Exits: All body art facilities must have:

1. An entrance leading directly into the establishment; and
2. No direct opening between an establishment and any building or portion of a building used as living or sleeping quarters or as a food, liquor, or tobacco establishments.

Exception: Body art facilities located in a nail technology salon or cosmetology salon may share an entrance into the entire establishment, however, the body art facility must be separated by at least 6-foot high walls.

The owner must ensure that the openings to the outside are protected by means of self-closing doors or screened/closed windows to prevent the presence of insects, vermin, or rodents.

46.005.04 Privacy Area: Each facility must have an area that can be screened from public view for customers requesting privacy or for all genitalia body art procedures.

46-006 VENTILATION: The owner must ensure that a consistent fresh air supply is provided to the facility. In addition, fans may be provided to circulate the air within the facility. S/he may do so by using one or more of the following:

1. A ventilation system which is in good, working condition; or
2. A furnace or air conditioner in which:
 - a. The air distribution system filters are cleaned or replaced annually or more often if needed to avoid restriction of airflow; and

- b. The furnace fan setting is placed on “continuous” or “on” setting at all times the facility is occupied to ensure fresh air is coming into the facility;
or
3. Open windows/doors with a screen and a fan to provide and circulate fresh outside air.

46-007 WATER

43.007.01 The owner must ensure that the facility has a supply of hot and cold running water in sufficient quantities to conduct the facility in a sanitary manner, specifically that:

1. In cities or villages in which an authorized public water supply is available, the facility must be connected to the public water supply and comply with state law, city or village ordinances, and local health authority requirements.

46-007.02 The owner must ensure that wastewater is disposed of through a system that carries it away from buildings and is either:

1. A public sewer connection; or
2. A private disposal system that complies with state law, city or village ordinances, and local health authority requirements.

46-008 SAFETY: The owner must maintain the facility in a safe condition. S/he must ensure that:

1. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and in good repair;
2. Floors are free of unsafe objects and slippery or uneven surfaces;
3. Doors, stairways, passageways, aisles or other means of exit provide safe and adequate access;
4. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution; and
5. Water or product spills on the floor are removed immediately and the floor is dried to avoid falls.

46-009 REQUIRED EQUIPMENT/FURNISHINGS: The owner must ensure that each facility has the following equipment/furnishings and that the equipment/furnishings are in good repair, cleanable and in a sanitary condition at all times.

1. Hand washing sink, which is clean and includes:
 - a. Hot and cold running water that passes through a mixing type of faucet;
 - b. Liquid soap;
 - c. Single-use paper towels; and
 - d. Waste receptacle.

2. Equipment washing sink for employee use only, which is clean and includes:
 - a. Hot and cold running water that passes through a mixing type of faucet;
 - b. Liquid soap;
 - c. Single-use paper towels; and
 - d. Waste receptacle.

Facilities which use all disposable equipment are not required to have an equipment washing sink.
3. Sharps Container: Contaminated sharps must be disposed of in approved sharps container in a manner to ensure the prevention of cross-contamination.
4. Autoclave(s): Autoclave(s) used for sterilizing metal tools/equipment must be clean and the owner must ensure that the employee follows manufacture's direction for use.
 - a. If all disposable equipment/instruments are used, an autoclave is not required.
 - b. If ultrasonic cleaning units or dry heat sterilizers are used, they must not be the only means of sterilization and must be used and maintained in accord with manufacturer's recommendations and be kept clean and sanitary.
5. Waste Receptacle: At least 1 waste receptacle for each workstation, which is covered and has a plastic liner.
6. Work Tables or Counters: All work table or counters must be smooth, non-absorbent, non-porous and cleanable. Each workstation must include a surface cleaner (germicidal).
7. Disposable Ink Caps: Ink caps are required if providing tattooing and permanent color technology procedures.
 - a. If the licensee uses an ink cap holder, the holder must be smooth, non-absorbent, non-porous and sterilizable.
8. First Aid Kit
9. Customer Chair(s) and Body Artist(s) Chairs: The chairs must be made of cleanable material; cloth chairs are not acceptable.
10. Storage Cabinets or Containers: Clean cabinets/containers for storing clean and sterilized instruments and supplies.
11. Barriers: A barrier must be used to ensure the prevention of cross-contamination.

46-010 FURNITURE: The owner must ensure that all furniture is in good repair and in a sanitary condition at all times.

46-011 STORAGE: The owner must ensure that storage within the facility meets the following requirements. Body artists must comply with the following requirements.

1. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device.
2. All chemicals are stored in closed bottles or containers and labeled.
3. No cleaning/sterilizing products are stored:
 - a. Where food is kept;
 - b. In the restroom, unless in a locked cabinet; or
 - c. With single use supplies.
4. Storage units:
 - a. Cabinets, drawers, containers used for storage of supplies, instruments and towels are clean.
5. Supplies:
 - a. Unused supplies are stored in a clean, enclosed container or drawer;
 - b. Used/soiled disposable supplies are discarded immediately in a clean, closed waste receptacle with a plastic liner; and
 - c. Labeled accordingly.
6. Instrument Storage:
 - a. Instruments that have been used on a client or soiled in any manner are placed in a properly labeled covered receptacle until sterilized; and
 - b. Sterilized instruments are individually packed and stored in a clean closed container or drawer until used.
7. Contaminated sharps must be stored and disposed of in approved sharps container to ensure the prevention of cross-contamination.
8. Infectious Waste must be:
 - a. Handled and stored so that human exposure is prevented; and
 - b. Discarded in double-lined plastic bags in covered waste receptacle or in an approved "red" bag marked with the international biohazard symbol and stored safely until transported by a licensed infectious waste hauler to an appropriate treatment or disposal facility.

46-012 TOWELS/LINENS: The owner must ensure that the use of towels/linens in the facility meets the following requirements and body artists must comply with the following requirements.

46-012.01 Used/Soiled Towel/Linen Storage:

1. Cloth linens (such as capes) are deposited in a closed receptacle after use;
2. Used/soiled cloth linens are not used again until properly laundered and sanitized; and
3. Only disposable single-use towels are used for body art services and must be discarded in a closed waste receptacle, with a plastic liner, immediately following each body art service.

46-012.02 Laundry: Cloth towels are laundered either:

1. By regular commercial laundering; or
2. By a noncommercial laundering process which includes immersion in water at 140 degrees Fahrenheit for not less than 15 minutes during the washing or rinsing operation.

46-012.03 Clean Towel/Linen Storage:

1. All clean linens are stored in a clean, enclosed cabinet or container until used.
2. All disposable towels are stored in a clean, enclosed cabinet or container until used.

46-013 PRODUCTS: The owner must ensure that the use of products in the facility meets the following requirements and body artists must comply with the following requirements.

1. All liquids, cosmetics, creams, gels, pastes, powders, and other products are kept in clean, closed containers;
2. Original product bottles and containers have an original manufacturer label;
3. When only a portion of the product is to be used on a client, the product is removed from the container by a spatula, scoop, spoon, or dropper so that the product does not come in direct contact with the client and to assure the remaining product is not contaminated; and
4. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product.

46-014 SUPPLIES, PRODUCTS AND MATERIALS: The owner must ensure that the use of supplies, products and materials in the facility meets the following requirements and body artists must comply with the following requirements.

1. Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, pads, "Q-tips", sponges, bandages, tapes, surgical dressing and other similar items, are disposed of in a covered waste receptacle, with a plastic liner, immediately after use.
2. All products applied to the skin, including stencils must be single-use and disposable. Acetate stencils will not be allowed for re-use if sanitization procedures are not performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils must be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of

the original container and its contents. The gauze must be used only once and then discarded.

46-015 PIGMENTS, COLORS AND DYES: Pigments, colors and dyes used from stock solutions for each customer must be placed in a single-use receptacle and the receptacle and remaining solution must be discarded and disposed of after each use.

46-016 RASH OR INFECTION:

1. No licensee affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, rash or acute respiratory infection may work in any capacity in which there is likelihood that they could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
2. A client must not receive body art procedures on areas which are irritated/inflamed or have moles, rash, broken skin, or infection.

46-017 LICENSEE HAND CLEANLINESS: Every body artist must wash his/her hands thoroughly with liquid soap and water and dry them with single use disposable towels, before and after serving each client and at any time during the procedure when the hands may become contaminated.

46-018 GLOVES: The owner must ensure that each licensee, wears gloves in accordance with the following:

1. When performing body art procedures. The licensee must wash his/her hands prior to gloving. Gloves must be disposed after the completion of each procedure on each customer. If gloves become torn, punctured or otherwise contaminated, licensees must remove and dispose of the gloves, wash his/her hands with liquid soap and water, and dry with a disposable towel, and then put on a new pair of gloves before resuming the body art procedure.

46-019 SINGLE USE ITEMS: Single use items must not be used on more than one client for any reason. After use, all single use needles, razors, razor blades and other sharps must be immediately disposed of in a waste receptacle.

46-020 PREPARATION AND CARE OF THE BODY ART AREA: Before performing body art procedures, the immediate area of the skin or mucous membrane where the body art procedure is to be placed must be washed with liquid soap and water. Only single-use disposable towels, washing pads, blotters, etc may be used. An antiseptic mouth rinse must be used prior to any oral procedure. The towel, pad, and/or blotter, must be discarded after a single use.

1. Shaving: If shaving is necessary, single-use disposable razors or safety razors with single-service blades or clippers. Single-service must be discarded after

each use and the reusable holder must be autoclaved after use. Clippers must be cleaned and sprayed with a disinfectant solution after each client. Following shaving, the skin and surrounding area must be washed with liquid soap and water. The washing pad must be discarded after a single use.

2. Oral body art: Before an oral body art procedure may be performed, the customer must rinse his/her mouth with an antiseptic mouthwash which is provided to the customer in single use cups.
3. Blood Flow: In the event of blood flow, all products used to check the flow of blood or to absorb blood must be sanitary and single-use products.

46-021 STERILIZATION: The owner must ensure that after use by each customer, all non-disposable instruments and procedure work surfaced are cleaned and sterilized with a sanitizer that has a demonstrated tuberculocidal activity, as indicated by the product label.

1. Jewelry used for new body piercing must be sterilized with an autoclave or chem-clave. Acrylic jewelry can not be used for a new piercing. Jewelry used in healed body piercing does not have to be sterilized, but must be used according to product label.
2. Clippers must be disinfected with a liquid chemical sterilant after each use.
3. All non-disposable instruments used for body art must be cleansed and sterilized after each use. Autoclave or chem-clave sterilization must be conducted for the cycle of time and corresponding operating pressure recommended by the manufacturer of the autoclave. Sanitizers used in the cleaning process must have demonstrated tuberculocidal activity, as indicated by the product label and be registered with the U.S. Environmental Protection Agency.
4. Instruments that are to be autoclaved within the facility must be packed in single-use paper pre-packs or other containers designed for sterilizing instruments and marked with the expiration date. The expiration date must not exceed 90 days from the date autoclaved.
5. All sterilized instruments must remain stored in sterilized packages until just prior to performing a body art procedure. Where several instruments are sterilized at the same time in the same package, such as in a single use setup, once the container is opened any instrument not used immediately in a procedure must be resterilized.
6. Every batch of sterilized equipment must be monitored for sterilization by use of a heat sensitive indicator that is capable of indicating approximate time and temperature achieved.

46-022 AUTOCLAVE STANDARDS

1. Spore destruction tests must be performed to prove that autoclaves are capable

of attaining the minimum operating standards. Spore tests must be performed at a minimum of once for each autoclave every 30 days and must be verified through an independent laboratory or tester. A tester must be qualified by the CDC, American Dental Association (ADA), or FDA. A record of all spore tests must be maintained for 2 years, prior to April 1, 2005, the facility must have tests available for the past 60 days.

- a. An autoclave which has received a positive spore test must be immediately removed from service. Prior to using, the owner must ensure that there is evidence of 1 negative spore test. If the autoclave requires repair work, it can not be utilized until it has received 2 negative spore tests.
2. Autoclaves must be cleaned and serviced at the frequency recommended by the manufacturer. A copy of the manufacturers cleaning and servicing instructions must be maintained in the facility.

46-023 DISINFECTANT SOLUTION STORAGE AND CLEANLINESS: The owner must ensure that the use of disinfectant solution in the facility is used and maintained in accordance with the manufactures directions and body artists must comply with the following requirements.

1. Keep the disinfectant solution covered at all times; and
2. Change the disinfectant solution whenever visibly cloudy or dirty.

46-024 IMPLEMENTS, SUPPLIES, PRODUCTS, OR ACTIVITIES THAT ARE NOT ALLOWED

46-024.01 While in the facility, the owner or body artists must not engage in or allow any other person, to engage in any of the following activities:

1. Consuming food or beverages in any area where body art is performed, except that clients may be allowed to consume food or non-intoxicating drinks.
2. Storing food in the same area where chemical supplies are used or stored.
3. Using, consuming, serving, or in any manner possessing or distributing intoxicating beverages or controlled substances upon its premises during the hours the facility is open to the public and/or any procedures are being performed.
4. Performing body art when s/he is under the influence of alcohol, narcotic drugs, stimulants, or depressants or on any person who appears to be under the influence of alcohol, narcotic drugs, stimulants, or depressants.

46-024.02 The owner and body artist must not bring or permit animals, including pets, in the facility except for the following:

1. Animals used as guides for visually impaired or hearing-impaired persons, or service dogs for physically disabled; or
2. Fish in covered aquariums.

46-025 CONSENT: No person may perform body art on or to any person under 18 years of age without prior written consent of the parent or court-appointed guardian of such person. The person giving consent must be present during the procedure.

1. The person providing the body art service must retain a copy of the consent for 5 years.
2. The body artists retains the right to refuse body art procedures to a person under 18 years of age.

46-026 COMPLIANCE: The owner must ensure that each licensee present in the facility understands his/her personal responsibility to observe these rules of sanitation and safety at all times that the facility is open for business to the public and must ensure procedures are in place to ensure the prevention of cross-contamination.

46-027 ORDINANCES GOVERNING BODY ART: The licensure of persons performing body art or operating a body art facility under the Nebraska Cosmetology Act must not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the Nebraska Cosmetology Act.

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