

HEALTH

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH

CONSUMER, ENVIRONMENTAL, AND OCCUPATIONAL HEALTH SERVICE

PUBLIC HEALTH AND FOOD PROTECTION PROGRAM

Body Art and Ear-Piercing Facility Standards

Proposed Readoption with Amendments: N.J.A.C. 8:27

Proposed Repeals: N.J.A.C. 8:27-4.3, and 8.6 through 8.8

Proposed Repeals and New Rules: N.J.A.C. 8:27-8.1 through 8.5, 9.1, 11.1, and 11.5

Proposed New Rules: N.J.A.C. 8:27-4.1, 4.4, 4.8, 4.9 and N.J.A.C. 8:27 Chapter Appendix A

Proposed Recodifications: N.J.A.C. 8:27-4.1 as 4.2, 4.2 as 4.3, and 4.4 as 4.5

Proposed Recodifications with Amendments: N.J.A.C. 8:27-4.5 through 4.7 as 4.6 through 4.8

Authorized By: Judith M. Persichilli, RN, BSN, MA, Commissioner, Department of Health, in consultation with the Public Health Council.

Authority: N.J.S.A. 24:1-1 et seq., particularly 24:2-1, 24:5-18, and 24:17-1 et seq.; N.J.S.A. 26:1A-7(n), (o) and (p); and Reorganization Plan No. 003-2005 (Governor Codey, June 27, 2005).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2021- .

Submit written comments by _____, 2022, electronically to
<http://www.nj.gov/health/legal/ecomments.shtml> or by regular mail postmarked by

_____, 2022, to:

Joy L. Lindo, Director
Office of Legal and Regulatory Compliance
Office of the Commissioner
New Jersey Department of Health
PO Box 360
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

Title 24 of the Revised Statutes at Subtitle 1, Food and Drugs (comprising N.J.S.A. 24:1 through 17) implements the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq., and establishes additional and comparable State laws relating to food, drugs, devices, and cosmetics. N.J.S.A. 24:2-1 charges the Department of Health (Department) to promulgate rules to implement, and, with other health authorities having concurrent jurisdiction, to execute and enforce, the subtitle. N.J.S.A. 24:17-1, et seq., authorizes the Department and other health authorities to assess and recover penalties for violations of the subtitle and the rules that the Department promulgates pursuant to N.J.S.A. 24:2-1.

N.J.S.A. 26:1A-7 authorizes the “Public Health Council ... to establish, and from time to time amend and repeal, ... reasonable sanitary regulations ... as may be necessary properly to preserve and improve the public health in this State. The

regulations so established shall be called the State Sanitary Code. The State Sanitary Code may cover any subject affecting public health, or the preservation and improvement of public health and the prevention of disease in the State of New Jersey.”

On December 1, 1997, the Public Health Council, through the Department of Health (Department), issued a notice of preproposal of new rules to establish “Sanitary Standards for Invasive Cosmetic Procedures.” 29 N.J.R. 5041(b) (December 1, 1997), pursuant to the authority that N.J.S.A. 26:1A-7 confers on the Public Health Council to regulate matters affecting public health through the State Sanitary Code. The notice of preproposal solicited comments on public health and safety issues attributed to “invasive cosmetic procedures,” including tattooing (both decorative and cosmetic micropigmentation), body piercing, ear piercing, and branding. 29 N.J.R. at 5041-42. The notice of preproposal noted that the improper performance of these invasive cosmetic procedures can transmit infectious diseases, including hepatitis B, hepatitis C, and human immunodeficiency virus, and infectious organisms, including *pseudomonas* spp., *staphylococcus* spp., and *streptococcus* spp. 29 N.J.R. at 5042.

P.L. 1997, c. 177, An Act authorizing the Public Health Council to regulate tattoo parlors and amending P.L.1947, c.326 (approved January 8, 1998), amended N.J.S.A. 26:1A-7 to state that the “State Sanitary Code ... may contain sanitary regulations: ... (n) regulating the conduct of tattoo parlors; (o) regulating the conduct of body piercing; and (p) regulating the conduct of cosmetic tattooing.”

Thereafter, the Public Health Council, through the Department, convened an advisory committee comprising members of the regulated community, public health professionals, and members of the health care industry to review the comments

submitted in response to the notice of preproposal and develop reasonable safety standards for this industry.

In early 2001, the Public Health Council, through the Department, proposed new rules at N.J.A.C. 8:27, Body Art Procedures, to establish standards applicable to owners and operators of body art establishments. 33 N.J.R. 949(a) (March 19, 2001).

P.L. 2001, c. 190 (approved July 31, 2001, and effective November 28, 2001), established N.J.S.A. 2C:40-21, which makes it a disorderly persons offense to perform tattooing or body piercing on a minor under age 18 without the written permission of the minor's parent, guardian, or other person standing in the place of the minor's parent.

In early 2002, the Public Health Council, through the Department, adopted the proposed new rules at N.J.A.C. 8:27. 34 N.J.R. 923(b) (February 19, 2002).

Reorganization Plan No. 003-2005 (Governor Codey, June 27, 2005) recast the role of the Public Health Council as being of a consultative and advisory nature in relation to the powers of the Commissioner of Health. Governor Codey therein ordered that the "functions, powers and duties of the Public Health Council ..., other than the Council's advisory and consultative functions, are continued and are transferred to the Department of Health ... to be allocated within the Department as determined by the Commissioner." 37 N.J.R. 2735(a) (August 1, 2005).

Thereafter, in accordance with this authority, the Department, in consultation with the Public Health Council, convened an advisory committee, comprising representatives of the New Jersey Health Officers Association, the New Jersey Environmental Health Association, the New Jersey Healthcare Central Service Association, the Ear Piercing Manufacturers of the United States, Inc., tattoo practitioners, body piercing practitioners,

and permanent cosmetic practitioners. The function of the advisory committee was to review the existing rules at N.J.A.C. 8:27. The advisory committee recommended substantive and technical changes through the chapter, and the Department began to develop rulemaking to implement these and other changes to update the chapter. However, the Department was unable to conclude preparation of the rulemaking in time to prevent expiration of the chapter. Therefore, in early 2007, the Department, in consultation with the Public Health Council, proposed to readopt N.J.A.C. 8:27 without change to maintain the chapter's effectiveness until the rulemaking was ready to proceed, and adopted the proposed readoption later that year. 39 N.J.R. 826(a) (March 19, 2007), 3914(b) (September 17, 2007).

P.L. 2011, c. 45, at §1 (approved April 6, 2011), amended the Administrative Procedure Act at N.J.S.A. 52:14B-5.1. The amendment operated to extend the expiration date of N.J.A.C. 8:27 by two years, that is, from August 15, 2012, to August 15, 2014. See 43 N.J.R. 1203(a) (May 2, 2011).

In mid-2014, the Department, in consultation with the Public Health Council, readopted N.J.A.C. 8:27 without change, thereby extending the expiration of the chapter to July 11, 2021. 46 N.J.R. 1816(a) (August 18, 2014).

In late 2016, the Department received, and in early 2017, published a notice of receipt of, a petition for rulemaking with respect to the rules governing "permanent makeup" (also known as "permanent cosmetics") at N.J.A.C. 8:27. 49 N.J.R. 146(a) (January 3, 2017). The Department thereupon published a notice of action on the petition for rulemaking, indicating that the Department was referring the petition for rulemaking to the Consumer, Environmental and Occupational Health Service of the

Division of Epidemiology, Environmental, and Occupational Health of the Public Health Services Branch of the Department, for further deliberation. 49 N.J.R. 286(a) (February 6, 2017).

The Consumer, Environmental and Occupational Health Service has considered the petition and made recommendations thereon, which the Department proposes to implement through this rulemaking.

N.J.A.C. 8:27 was to expire July 11, 2021. P.L. 2021, c. 104, and Executive Order 244 (Governor Murphy, 2021), operated to extend the chapter expiration to January 1, 2022. The Department has reviewed N.J.A.C. 10:36A (10A:35) and has determined that, subject to the proposed amendments, repeals, new rules, and recodification described below, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted. The filing of this notice of proposal to readopt the chapter prior to chapter expiration operates to extend the chapter expiration to June 30, 2022.

The Department is providing a 60-day comment period for this rulemaking proposal. Therefore, the notice of proposal is exempt from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

The Department proposes to rename the chapter to reflect that it applies to facilities that provide ear-piercing services, in addition to body art services. The Department proposes technical amendments throughout N.J.A.C. 8:27 to update contact information, citations, and references to publications that the chapter incorporates by reference, as amended and supplemented; to reflect the reorganization,

and attendant renaming, of the Department pursuant to N.J.S.A. 26:1A-2.1; and to replace undefined terms with defined terms, such as by using the defined term, “establishment,” instead of the undefined term, “facility”; the proposed newly defined term, “health care provider,” instead of the term, “physician”; the defined term, “pigment,” instead of the undefined terms, “ink” and “colorant”; and the defined term, “operator,” instead of the undefined terms, “facility owner” or “management.” The Department proposes to restate several sections to indicate that they establish standards on operators to ensure that personnel, practitioners, and apprentices whom operators allow to work and or perform procedures, at an establishment adhere to the standards, as conditions of operators’ continued permission or licensure in good standing to operate establishments. The Department proposes non-substantive amendments throughout the chapter to correct punctuation, spelling, and grammar, improve sentence structure, and avoid the passive voice.

Subchapter 1 establishes general provisions. The Department proposes to amend existing N.J.A.C. 8:27-1.2 Scope. Proposed new subsection (a) would indicate that the chapter establishes standards that apply to persons and entities applying for licensure or permission to operate body art and ear-piercing establishments unless a subchapter specifies otherwise, delete the reference to the chapter as applicable to “businesses,” and to add reference to the chapter as applicable to “operators” of establishments. Proposed new subsection (b) would indicate that the qualifying conditions for persons whom operators authorize to perform body art and ear-piercing procedures do not apply to the performance thereof by health care providers. Proposed new subsections (c) and (d) would amend existing text to reflect the implementation,

regulatory, and enforcement authority that portions of Titles 24 and 26 of the Revised Statutes confer on the Department, other health authorities, and State and local police.

Existing N.J.A.C. 8:27-1.3 Definitions establishes definitions of terms the chapter uses. The Department proposes to amend the Department to add definitions of the following terms: “adverse reaction,” “Alliance of Professional Tattooists,” “American Academy of Micropigmentation,” “areola restoration,” “Department,” “bloodborne pathogens standard,” “concealment,” “Department,” “hand hygiene guideline,” “health care provider,” “measure of pH” or “pH,” “medical gloves,” “microblading,” “minor,” “occupational exposure,” “pigment,” “Public Health and Food Protection Program,” “responsible person,” “safety data sheet,” “Society of Permanent Cosmetic Professionals,” “SofTap®, Inc.,” “standard precautions,” and trainer or instructor.”

The Department proposes to delete the existing definitions of the terms, “acceptable” and “approved,” because the provided definitions do not enhance understanding of these terms, the meanings of which are clear in context.

The Department proposes to amend the existing definition of the term, “body art,” to indicate that the term does not include the practice of “ear piercing,” which is an existing defined term.

The Department proposes to delete the existing definitions of the terms, “medical grade gloves” and “universal precautions,” at N.J.A.C. 8:27-1.3 to correspond respectively to the addition of the proposed new terms, “medical gloves” and “standard precautions.”

The Department proposes to amend the existing definition of the term, “after care,” at N.J.A.C. 8:27-1.3 to change the term to “after-care instruction,” and to indicate

that the term means instruction that a practitioner gives to a client for the care of a body art site and surrounding area during the immediately post-procedure healing period and thereafter, and to indicate that instruction means both in spoken words and in writing.

The Department proposes to amend the existing definition of the term, “camouflage,” at N.J.A.C. 8:27-1.3 to specify that procedure, performed by a permanent cosmetics practitioner, to restore the appearance of skin that has been altered by an injury, a clinical condition, or from clinical treatment.

The Department proposes to amend the existing definition of the term, “communicable diseases,” at N.J.A.C. 8:27-1.3 to place the term in the singular, that is, “communicable disease,” and to have the meaning that N.J.A.C. 8:57 establishes for that term.

The Department proposes to amend the existing definition of the term, “cutting,” at N.J.A.C. 8:27-1.3 to include scarification and the use of acid for the purposes of creating a scar as being within the meaning of the term. The Department proposes to exclude “microblading,” a form of micropigmentation, from this definition.

The Department proposes to amend the existing definition of the term, “disinfection,” at N.J.A.C. 8:27-1.3 to include specific procedures for the disinfection of jewelry for initial body piercing.

The Department proposes to amend the existing definition of the term, “establishment,” at N.J.A.C. 8:27-1.3 to include ear-piercing establishments and to delete the undefined term, “technician.”

The Department proposes to amend the existing definition of the term, “health authority,” at N.J.A.C. 8:27-1.3 to reflect that the term includes local health agencies with jurisdiction.

The Department proposes to amend the existing definition of the term, “permanent cosmetics,” at N.J.A.C. 8:27-1.3 to delete the reference to the alternative term, “dermal pigmentation,” which does not appear in the chapter.

The Department proposes to amend the existing definition of the term, “single use,” at N.J.A.C. 8:27-1.3 to mean for use one time on one client, to indicate that the listed items are examples of single-use items, and to add “markers” to this list.

Subchapter 2 establishes administration standards. The Department proposes to amend the requirements for body art establishment applications at N.J.A.C. 8:27-2.1(a) to require applicants to specify the services to be provided at the establishment, the practitioners employed by the establishment, the client consent forms that the establishment plans to provide to their clients, and to require applicants to notify the health authority for any persons other than listed regular practitioners or apprentices who will be performing body art in the establishment. The Department proposes to amend N.J.A.C. 8:27-2.6(a) to include prohibitions against the performance of skin implantations; scarification or use of a laser to remove pigment; body art or ear-piercing upon a minor without the presence, written consent and proper identification of a parent or legal guardian, unless the minor provides a court order declaring the minor to be emancipated; the use of a high-impact stud-and-clasp piercing system on the trailing edge of the ear or at any body location other than the earlobe; areola restoration or camouflage other than at a permanent cosmetics establishment; operation of a body art

or ear-piercing establishment other than in accordance with applicable requirements of this chapter; performance of body art or ear piercing in an establishment unless the operator or a responsible person is present on the premises and supervising the establishment; and performance of or advertising of body art services by persons who do not possess a license from the health authority or whose license is not in good standing.

Subchapter 3 establishes physical plant and environment standards.

Subchapter 4 establishes standards for “Health Safety and Occupational Health.” The Department proposes to amend the awkward wording of the subchapter heading to be “Client and Occupational Health and Safety.” The Department is proposing to revise this subchapter to collect and restate health and safety standards of general applicability to all body art establishments, some of which already appear in the body art discipline-specific subchapters at Subchapters 6 through 8, and 10. The Department is proposing corresponding deletions of these standards from the discipline-specific subchapters to avoid redundancy.

Proposed new N.J.A.C. 8:27-4.1 Scope would establish the scope of the subchapter as applicable only to body art establishments, which would not include ear-piercing establishments, as to which existing Subchapter 9, as proposed for amendment, would establish applicable client and occupational health and safety standards.

The Department proposes to recodify existing N.J.A.C. 8:27-4.1 and 4.2 as new 4.2 and 4.3.

The Department proposes to repeal existing N.J.S.A. 8:27-4.3, which establishes standards for medical consultation, and proposes new N.J.A.C. 8:27-4.4 Health care provider instruction required for certain procedures, which would establish standards for health care provider instruction for certain procedures. Proposed new subsection (a) would require the performance of camouflage and areola restoration, by means of a permanent cosmetics procedure, to be under the written instructions, guidelines, and treatment plan of a client's health care provider. Proposed new subsection (b) would indicate that subsection (a) does not apply to concealment procedures.

The Department proposes to recodify existing N.J.A.C. 8:27-4.4 as new N.J.A.C. 8:27-4.5.

Existing N.J.A.C. 8:27-4.5 establishes reporting requirements. The Department proposes to recodify this section as new N.J.A.C. 8:27-4.6. The Department proposes nonsubstantial amendments at existing (a) and (b), to be recodified in part as new subparagraphs (a)1 and 2, consistent with the description of chapter-wide amendments, above. Proposed new N.J.A.C. 8:27-4.6(a)3 would list events that trigger an obligation to report to a local health authority. The Department proposes amendments to existing text, to be codified as new subsection (b), to indicate the obligation of local health authorities to report communicable diseases in accordance with N.J.A.C. 8:57.

Existing N.J.A.C. 8:27-4.6 establishes standards for hand washing and personal hygiene and existing N.J.A.C. 8:27-4.7 addresses employee health, and communicable and bloodborne diseases. The Department proposes to merge the content of these two sections and recodify this section as new N.J.A.C. 8:27-4.7, and amend the Department heading to reflect that the section would address adherence to the standard

precautions, infection control, bloodborne pathogen training, and recordkeeping. The proposed name of this section is “Hand washing, use of standard precautions, infection control, bloodborne pathogen training, and record maintenance.” The Department proposes to amend subsection (b) to require practitioners and apprentices to adhere to the Hand Hygiene Guidelines. The Department proposes to delete existing subsection (c) and propose new subsection (c) to reflect that operators are to provide soap for handwashing purposes that is dispensed in either foam or liquid forms. The Department proposes new subparagraph (c)1 which requires the removal of all jewelry on or surrounding the hands. The Department proposes new subparagraph (c)2, which would prohibit refilling or “topping off” refillable dispensers without first emptying and washing them. The Department proposes new subparagraph (c)3 through (c)6 which details the proper hand washing technique. The Department proposes to delete existing subsections (d) and (e), and amend existing subsection (f), to be recodified as new subsection (c), to remove standards that are redundant of obligations established elsewhere, such as the obligation to wear personal protective equipment and to dispose of single-use equipment after use, in accordance with the standard precautions. The Department proposes to amend existing subsection (g), to be recodified as new subsection (d), to require operators to provide alternatives to latex-containing equipment to which practitioners, apprentices, and/or clients who have latex allergies might be exposed. Proposed new subsection (e) would require operators to ensure that practitioners and apprentices adhere to the standard precautions, and would list some of these, which include wearing fluid-impervious gowns, medical gloves, masks, and eyewear, and replacing compromised equipment. The Department proposes new

subsection (f) to detail portions of the standard precautions and bloodborne pathogens standard. The Department proposes new subsection (g) with subparagraphs (g)1 through (4) to require practitioners, apprentices, and other workers with occupational exposure to wear specified personal protective equipment. The Department proposes new subsection (h) to indicate that operators are to establish and implement written policies and procedures to ensure compliance with the measures listed at subparagraphs (h)1 through (h)6. The Department proposes to amend existing subparagraph (h)3 to require operators, subject to proposed new subparagraph (h)4 to prohibit the attendance at an establishment of any person who has a suspected or confirmed communicable disease absent a health care provider's written confirmation that a condition is not transmissible, and to retain the written confirmation with the worker's file. Proposed new subparagraph (h)4 would reflect that all persons are obliged to adhere to the standard precautions and bloodborne pathogens standard, regardless of the person's status as having suspected or confirmed infection with HIV, hepatitis B, or hepatitis C. Proposed new subparagraph (h)5 would require operators to ensure that workers at an establishment receive hepatitis B vaccination in accordance with the bloodborne pathogens standard, to retain the vaccination record with the worker's file. Proposed new subparagraph (h)6 would require operators of body art establishments to ensure that practitioners and apprentices receive bloodborne pathogens training that is compliant with the bloodborne pathogens standard at 29 CFR § 1910.1030(g)(2), which requires employers to establish a training program, annually provide site-specific bloodborne pathogens training at employer expense and during working hours for employees who have occupational exposure, and ensure employee

participation therein. The applicability of 29 CFR § 1910.1030(g)(2) to a practitioner or apprentice at an establishment depends on the person's status as an employee of the operator. The requirement of employer provision of training does not apply to private contractors and student apprentices unless they serve as an operator's employees in other capacities that subject them to occupational exposure. See the following Standard Interpretation Letters of the Occupational Safety and Health Administration of the United States Department of Labor: July 29, 2002, to Mr. Vidra, at <https://www.osha.gov/laws-regs/standardinterpretations/2002-07-29>; July 31, 2008, to Mr. Vidra and Ms. Lachance, at <https://www.osha.gov/laws-regs/standardinterpretations/2008-07-31>; and June 20, 2016, to Ms. Lachance, at <https://www.osha.gov/laws-regs/standardinterpretations/2016-06-20-0>.

Proposed new N.J.A.C. 8:27-4.8 would establish the minimum standards for the appointment of practitioners and apprentices by operators, qualified as per N.J.A.C. 8:27-6.1, 7.1, and 8.1 as appropriate. Proposed new subsection (a) would only allow for qualified practitioners and apprentices to furnish their qualifications and documentation to their operators, including the successful completion of a bloodborne pathogens standard course; require operators to maintain a file on each practitioner and apprentice, containing their qualifications and documentation; and make each file available to the Department or health authority upon request. Proposed new subsection (b) would require operators to train each employee who has occupational exposure in the bloodborne pathogen standard pursuant to 29 CFR § 1910.1030(g)(2), at no cost to the employee, during working hours, and with employee participation.

Proposed new N.J.A.C. 8:27-4.9 would establish the minimum standards for the appointment of practitioners and apprentices by operators. Proposed new subsection (a) requires operators, as per the requirements of N.J.A.C. 8:27-6.1, 7.1, and 8.1 respectively, to only allow qualified apprentices and practitioners to perform body art; require practitioners and apprentices to furnish their qualifications to operators; successfully complete and furnish documentation of a bloodborne pathogens standards course to the operator; require operators to maintain files of each practitioner and apprentice along with their documentation; and make available each file to the Department or health authority upon request. Proposed new subsection (b) would require operators to train each employee who has occupational exposure in bloodborne pathogens standard in accordance with 29 CFR §1910.1030(g)(2), at no cost to the employee and during working hours.

Proposed new N.J.A.C. 8:27-4.9 Pigments would establish pigment standards. Proposed new subsection (a) would require operators to ensure that body art practitioners and apprentices only use pigments that are compliant with 21 CFR Chapters 73, 74, and 700; are nontoxic, nonirritating to tissue, stable to light, and inert to tissue metabolism; do not contain talc, coal tar, known carcinogens, or more than certain amounts of lead, mercury, or arsenic; and are prepared using nontoxic materials, stored out of direct sunlight, and not autoclaved. Proposed new subsection (b) would require operators to ensure that practitioners and apprentices apply pigments using single-use containers for each client, remove excess pigments using single-use, lint-free paper products, and annotate pigment data in the client record of the procedure. Proposed new subsection (c) would require operators to obtain, maintain,

and make available on request, to clients and the health authority, the safety data sheet for each pigment in use at an establishment.

Subchapter 5 establishes sterilization and disinfection standards.

Subchapter 6 establishes standards for body piercing. Existing N.J.A.C. 8:27-6.1 establishes training requirements for persons who perform body piercing. The Department proposes to amend N.J.A.C. 8:27-6.1 at subsection (b) to reflect that a person serving as an apprentice is not a “practitioner” and to delete subparagraph (b)3, which establishes standards for body piercing practitioners’ completion of bloodborne pathogens training. As described above, the proposed amendments at Subchapter 4 would capture and restate the health and safety standards of general applicability to all body art establishments, including the bloodborne pathogens training standard. Therefore, the proposed amendment would delete the redundant provision from Subchapter 6. The Department proposes to delete N.J.A.C. 8:27-6.1(c) as redundant of proposed amended N.J.A.C. 8:27-6.1(b). The Department proposes to amend N.J.A.C. 8:27-6.2 at subsection (a) to require jewelry, to be used in initial body piercing, be compliant with the Alliance of Professional Piercers’ Initial Jewelry Standards, as amended and supplemented. The Department proposes to delete existing subsection (b) and merge this subsection under N.J.A.C. 8:27-6.2(a)2. Proposed new subparagraph 6.2(a)1 would include sterilization as an alternative to disinfecting jewelry. The Department proposes to amend existing subsection 6.2(c) to clarify acceptable types of bags for jewelry storage. The Department proposes to amend subsection 6.2(f) to clarify that jewelry intended for specified parts of the body are not used in any other body locations. The Department proposes to amend subsection 6.2(g) to ensure that

operators provide written notice to the client regarding the pre-worn status of jewelry before use.

Subchapter 7, Tattooing, establishes standards for tattooing. Existing N.J.A.C. 8:27-7.1 establishes training requirements for persons who perform tattooing. The Department proposes to amend N.J.A.C. 8:27-7.1 at subsection (b) to reflect that a person serving as an apprentice is not a “practitioner” and to delete subparagraph (b)3, which establishes standards for tattoo practitioners’ completion of bloodborne pathogens training. As described above, the proposed amendments at Subchapter 4 would capture and restate the health and safety standards of general applicability to all body art establishments, including the bloodborne pathogens training standard. Therefore, the proposed amendment would delete the redundant provision from Subchapter 7. The Department proposes to delete N.J.A.C. 8:27-7.1(c) as redundant of proposed amended N.J.A.C. 8:27-7.1(b).

Subchapter 8 establishes standards for establishments that perform permanent cosmetics. The Department proposes to repeal existing N.J.A.C. 8:27-8.1 through 8.7 and to add new rules in their place.

Proposed new N.J.A.C. 8:27-8.1 would establish minimum standards for operators in the appointment of practitioners and apprentices. Proposed new N.J.A.C. 8:27-8.1(a) would require operators of body art establishments to permit only permanent cosmetics practitioners and apprentices who have the qualifications identified in proposed new N.J.A.C. 8:27-8.2 to perform permanent cosmetics at their establishments, to maintain a file for each practitioner and apprentice containing copies

of applicable documentation of qualifications and other required records, and to make these records available upon request of health authorities.

Proposed new N.J.A.C. 8:27-8.2 would establish the minimum qualifications of permanent cosmetics practitioners, and the documentation required for verification of those qualifications. These qualifications include evidence of successful completion of a basic permanent cosmetics training program of at least 100 hours administered by one of three internationally-recognized professional organizations, the performance of a certain number of procedures under the direct supervision of a certified trainer or instructor, completion of a bloodborne pathogens course, and, for qualification as practitioners of camouflage and/or areola restoration, documentation of the performance of a certain number of additional types of these cosmetics procedures. Subsection (c) would provide an alternative qualification method for persons who have performed the requisite number of procedures but did not perform all of these procedures under the direct supervision of a certified trainer or instructor. The subsection would require the person to perform an additional procedure under the supervision of a certified trainer or instructor.

Proposed new N.J.A.C. 8:27-8.3 would establish minimum standards for apprenticeship programs in permanent cosmetics. Proposed new subparagraph (a)1 would require operators seeking to establish apprenticeship programs to submit, on license application form EHS-34 or equivalent, to the local health authority, documentation of trainers who have been a practitioner for at least one year, a written outline documenting the evaluation criteria established for the successful completion of an apprentice program, and documentation of individuals who successfully complete the

apprentice program. Proposed new subparagraph (a)2 would establish the required content of apprenticeship programs. Proposed new subparagraph (a)3 would establish the minimum number of procedures that an apprenticeship program is to require an apprentice to perform. Proposed new subparagraph (a)4 through 6 would establish apprentice supervisory standards. Proposed new subparagraph (a)7 would establish requirements for maintenance of records of apprenticeships.

Proposed new N.J.A.C. 8:27-8.4 would establish operator responsibilities with respect to hand cleaning and skin preparation by practitioners and apprentices in the performance of permanent cosmetic procedures.

Proposed new N.J.A.C. 8:27-8.5 would establish practice standards for permanent cosmetics procedures. Proposed new subsection (a) would require operators to ensure that practitioners and apprentices discard single-use devices after use, administer new client applications forms for touch-up procedures after 180 days have elapsed since the earlier procedure, administer after-care instruction following each procedure, ensure that over-the-counter cosmetics are not present in a procedure room, refrain from performing permanent cosmetics on unhealthful or impaired skin, refrain from performing permanent cosmetics procedure on persons who are pregnant, or who are taking or have taken within the preceding year oral tretinoin or isotretinoin medication.

The Department proposes to repeal existing N.J.A.C. 8:27-8.6 through 8.8.

Existing Subchapter 9, Ear Piercing, establishes standards for ear piercing. The Department proposes a repeal and new rule at existing N.J.A.C. 8:27-9.1 Scope, because the existing rule text is redundant of the existing definition of ear piercing. The

proposed new rule would restate the scope of the subchapter as applicable to ear-piercing establishments. The Department proposes nonsubstantive amendments at existing N.J.A.C. 8:27-9.2 consistent with the description of chapter-wide amendments, above. The Department proposes to amend existing N.J.A.C. 8:27-9.3 to reorganize and restate the required content of the application, to add hemophilia to the health conditions that warrant a health care provider's prior authorization and clearance of a client to receive ear piercing, and restate the requirements for parent or guardian authorization of minors to receive ear piercing and the associated documentation and record retention requirements for proof of age, identification, and relationship of the parent or guardian to the minor. The Department proposes nonsubstantive amendments at existing N.J.A.C. 8:27-9.4 consistent with the description of chapter-wide amendments, above. The Department proposes to amend existing N.J.A.C. 8:27-9.5 to establish hand washing procedures that are consistent with Centers for Disease Control and Prevention recommended guidelines for health care provider hand hygiene summarized at <https://www.cdc.gov/handhygiene/providers/index.html>, and to require operators to provide alternatives to latex-containing equipment to which practitioners, apprentices, and/or clients who have latex allergies might be exposed.

Subchapter 10 establishes standards for temporary establishments.

Existing Subchapter 11, Enforcement, establishes enforcement standards. The Department proposes a repeal and new rule at existing N.J.A.C. 8:27-11.1 Scope, to prevent conflict with or redundancy of N.J.A.C. 8:27-1.2, as proposed for amendment. The proposed new rule at N.J.A.C. 8:27-11.1 would indicate that the subchapter applies to body art and ear-piercing establishments.

The Department proposes to amend the Department heading of existing N.J.A.C. 8:27-11.2 as Inspection, inspection report, and plan of correction. The Department proposes to amend existing subsection (a) to require local health authorities to inspect each body art and ear-piercing establishment annually and upon receipt of an adverse reaction notification. The Department proposes to amend existing subsection (b) to require the State health authority to inspect each temporary body art and ear-piercing establishment occurring in State-operated facilities. The Department proposes to amend existing subsection (c) to indicate that the chapter implements Titles 24 and 26 of the Revised Statutes (thereby subjecting establishments to a health authority's rights of access to and inspection of premises) and add ear-piercing establishments to the types of establishments subject to inspection. The Department proposes to reorganize the section consistent with the description of chapter-wide amendments, above. Proposed new subsection (d) would require operators to permit the health authority full access to the establishment and to make records available for inspection and copying. Proposed new subsection (e) would indicate applicable laws prohibiting obstruction or interference with health authorities in the performance of their duties. Proposed new subsection (f) would establish procedures for issuance of inspection reports, notices of deficiencies, demands for plans of correction, and assessment of applicable fines and/or penalties. Proposed new subsection (g) would establish procedures by which operators, within 10 business days of receipt of a written inspection report, are to submit and implement deficiency correction plans and requests for reconsideration and by which health authorities are to review and accept or reject those plans and requests. Proposed new subsection (h) would require a health authority, within 10 days of receipt

of a plan of action or request for reconsideration, to review the plan and/or request and notify the operator of its decision to accept or reject them in whole or part, with reasons and further direction for the operator. Proposed new subsection (i) would permit a health authority to conduct a repeat inspection to confirm the operator's acceptable performance of deficiency corrections. Proposed new subsection (j) would subject an operator to additional or enhanced enforcement action if the operator were to fail to timely pay assessed fines and/or penalties, submit a plan of correction, resubmit a plan of correction that is acceptable to the health authority if the health authority rejected the operator's initial plan of correction in whole or in part, report to the health authority as to the status of the operator's completion of each part of an accepted plan of correction, and complete corrective measures in accordance with an accepted plan of correction. Proposed new subsection (k) requires local health authorities to submit a written report, using or containing at least the information listed in the form at Appendix A, of each adverse reaction notification it receives in the form or containing the information at Appendix A, incorporated herein by reference, to the Department in January of each year; and report to the Department within the reporting periods and in accordance with the reporting procedures specified at N.J.A.C. 8:57 if a notification pursuant to N.J.A.C. 8:27-4.6 or an inspection indicates a suspected or a confirmed case of a reportable communicable disease or a communicable disease outbreak. Proposed new subsection (l) would provide public access to final reports of annual inspections of body art and ear piercing establishments, reports of inspections of temporary establishments, and plans of correction. Proposed new subsection (m) would exclude adverse reaction notifications, communicable disease reports, and records relating to an ongoing

epidemiological outbreak investigation of a body art or ear piercing establishment are not subject to public access, for consistency with N.J.A.C. 8:57-1.14.

The Department proposes to amend existing N.J.A.C. 8:27-11.3 Criteria for closure and permit or license suspension, to reorganize and restate the grounds for closure and permit or license suspension; to add, to the list of grounds for closure, failure to report missing or malfunctioning equipment, performance of procedures by unqualified persons, and performance of procedures by unsupervised apprentices; to indicate that suspensions based on crime commissions are to apply to crimes committed post-issuance of a license or permit that are relevant to the practice of body art or ear piercing, provided the health authority was apprised of and had the opportunity to consider prior crimes as part of its review of the license or permit application; and to make operators strictly liable for violations notwithstanding operators' actual or purported lack of knowledge.

The Department proposes to amend existing N.J.A.C. 8:27-11.4 Penalties to identify additional references to statutory authority for enforcement and penalty imposition for violations of the chapter.

The Department proposes to repeal N.J.A.C. 8:27-11.5 Separability, as unnecessary, because the Department believes a court finding provisions of the chapter invalid would address the issue of continuing validity of the remaining provisions. The Department proposes new N.J.A.C. 8:27-11.5 Adulterated or misbranded device or cosmetic; detention and embargo, to reiterate the statutory authority of health authorities, pursuant to N.J.S.A. 24:4-12, to detain and/or embargo adulterated or misbranded devices within the meaning of Title 24 of the Revised Statutes.

Social Impact

The rules proposed for reoption and the proposed amendments, repeals, and new rules would continue to protect the health and safety of patrons and workers in body art and ear-piercing establishments and prevent the spread of infectious and communicable diseases by requiring operators to implement uniform sanitary practices and training. This would enhance public confidence in the safety of obtaining procedures in New Jersey body art and ear-piercing establishments.

Economic Impact

The rules proposed for reoption and the proposed amendments, repeals, and new rules would continue to require operators of body art and ear-piercing establishments to incur costs associated with staff training, equipment maintenance, supplying reusable and single-use equipment, recordkeeping, obtaining licensure or permits, and satisfying penalties for violations.

Costs associated with staff training would vary depending on the tuition cost of bloodborne pathogens training. Operators who enroll in Small Business Consultation Services provided by the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor can have bloodborne pathogen training provided free of charge to staff.

Costs associated with equipment maintenance include obtaining and servicing sterilization equipment and obtaining the professional analytical services of independent laboratories for biological monitoring of sterilizers.

Fees for obtaining establishment licenses or permits would continue to vary by municipality. In the Department's experience, based upon informal discussions with municipalities throughout the State, annual municipal fees range from approximately \$50.00 to \$600.

Operators may incur penalties for violations in amounts that applicable statutes impose, and loss of income associated with suspension or closure.

The rules proposed for readoption and the proposed amendments, repeals, and new rules would continue to require practitioners and apprentices to incur costs associated with tuition and materials for training.

Federal Standards Statement

The rules proposed for readoption and the proposed amendments, repeals, and new rules are not proposed under the authority of, or to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. Therefore, no Federal standards analysis is required.

Jobs Impact

The rules proposed for readoption and the proposed amendments, repeals, and new rules would neither increase nor decrease demand for body art and ear-piercing services. Therefore, the Department does not anticipate that the rules proposed for readoption and the proposed amendments, repeals, and new rules at N.J.A.C. 8:27

would result in an increase or decrease in the number of jobs for practitioners or trainers in the State.

Agriculture Industry Impact

The rules proposed for readoption and the proposed amendments, repeals, and new rules would have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The Department estimates that there are hundreds of operators of body art and ear-piercing establishments in the State and hundreds of individual practitioners of body art in the State who are independent contractors. Many operators and independent contractor practitioners are also training providers. All operators and independent contractor practitioners are likely to be small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption and the proposed amendments, repeals, and new rules would establish training, recordkeeping, reporting, and compliance standards, which would apply to operators of body art and ear-piercing establishments and establish minimum educational and experiential qualifications for practitioners and apprentices that operators permit to work in their establishments. The Summary, above, describes those standards. Operators, and practitioners who are independent contractors, would incur costs to comply with the proposed amendments, repeals, and new rules. The Economic Impact, above, describes those costs.

Operators and independent contractor practitioners would need to retain the services of professionals to provide training in bloodborne pathogens and/or in the performance of body art and ear piercing. As Economic Impact, above, describes, small businesses that enroll in OSHA Small Business Consultation Services can receive required bloodborne pathogens training free of cost.

The Department proposes no lesser or differing standards based on business size because the entire regulated community consists of small businesses and the Department has determined that the proposed amendments, repeals, and new rules would establish the minimum standards necessary to protect public health and safety.

Housing Affordability Impact Analysis

The rules proposed for readoption and the proposed amendments, repeals, and new rules would have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments, repeals and new rules would evoke a change in the average costs associated with housing because they would establish standards applicable to facilities that perform body art and ear-piercing procedures, and would have no impact on housing costs.

Smart Growth Development Impact Analysis

The rules proposed for readoption and the proposed amendments, repeals, and new rules would have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan and there is an extreme unlikelihood that the proposed amendments, repeals and new rules would

evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because they would establish standards applicable to facilities that perform body art and ear-piercing procedures, and would have no impact on development, planning, or housing production in the State.

Full text of the rules proposed for readoption and the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 8:27.

Full text of the proposed amendments, recodifications, and new rules follows (additions indicated in boldface, **thus**; deletions indicated in brackets, [thus]):

CHAPTER 27

BODY ART [PROCEDURES] **AND EAR-PIERCING FACILITY** STANDARDS

SUBCHAPTER 1. GENERAL PROVISIONS

8:27-1.2 Scope

[This]

(a) Except as a subchapter otherwise indicates, this chapter [shall govern all businesses] **applies to:**

1. Persons and entities that [offer tattooing, permanent cosmetics,] **apply for licensure or permission to operate body art** and [ear and body piercing to the public with the exception of a physician who is authorized by the State Board of Medical

Examiners to practice medicine, pursuant to N.J.S.A. 45:9-6.] **ear-piercing establishments; and**

2. Operators of body art and ear-piercing establishments.

(b) The [provisions of] general and discipline-specific standards in this chapter for qualification and training of practitioners and apprentices to perform body art and ear-piercing procedures at an operator’s establishment or under an operator’s license or permit do not apply to health care providers performing body art and ear-piercing procedures at an operator’s establishment or under an operator’s license or permit.

(c) Pursuant to N.J.S.A. 26:1A-7, this chapter is part of the State Sanitary Code [shall have], has the force and effect of law[. Under the authority of N.J.S.A. 26:1A-9, the provisions are], and is enforceable by the New Jersey [State] Department of Health [and Senior Services and local departments of] (Department), other health authorities, and State and local police, pursuant to N.J.S.A. 26:1A-9.

(d) This chapter implements provisions of N.J.S.A. 24:1 through 17 addressing devices and cosmetics, and is enforceable by the Department, other health authorities, and State and local police, pursuant to N.J.S.A. 24:2-1 and 24:17-1 and 2.

8:27-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise[.]:

[“Acceptable” means satisfactory or adequate; fulfilling the needs or requirements of a specified rule.]

“Adverse reaction” means a negative physiological response to a body art or ear piercing procedure such as injury, rash, infection, or allergy.

“[After care] After-care instruction” means [written instructions given] direction and information that a practitioner gives to [the] a client following the performance of a body art or ear-piercing procedure, in both spoken and printed form, which are specific to the [body art] procedure[(s) rendered, on caring for] performed, and which identify:

1. Client responsibilities and procedures for care of the body art or ear piercing and the surrounding area[. These instructions shall include information on when it is necessary to];

2. Physical, cosmetic, and/or other restrictions;

3. Indicators of infection and other adverse reactions, upon the appearance of which a client should seek medical treatment; and

4. With respect to body piercing, the need to maintain the tightness of balls attached to barbell studs to prevent:

i. The client’s ingestion of the jewelry; and/or

ii. The imbedding of jewelry into a client’s skin or mucosal linings.

“Alliance of Professional Piercers,” means the entity by that name for which the contact information is P.O. Box 1287, Lawrence, KS 66044, telephone: (785) 841-6060, website: <https://safepiercing.org>.

“Alliance of Professional Tattooists, Inc.,” means the entity by that name for which the contact information is 7770 Regents Rd., Suite 113, #635, San Diego, CA 92122, telephone: (816) 979-1300, website: <https://safe-tattoos.com>.

“American Academy of Micropigmentation” means the entity by that name for which the contact information is 11641 Sherman Way, North Hollywood, CA 91605, telephone (310) 882-9538, website <https://micropigmentation.org>.

“Antiseptic” means an agent that destroys [disease causing] **disease-causing** microorganisms on human skin or mucosa.

...

[“Approved” means written acceptance by the New Jersey State Department of Health and Senior Services.]

“Areola restoration” means a body art procedure that a permanent cosmetics practitioner performs, typically following lumpectomy, mastectomy, breast augmentation surgery, and/or breast reconstruction surgery, to:

- 1. Simulate an areola and/or nipple or establish another image at the current or former site of an areola;**
- 2. Address asymmetry or other aesthetic irregularity;**
- 3. Camouflage post-surgical scarring, and/or**
- 4. Restore the preoperative appearance of a breast.**

...

“Bloodborne pathogens standard” means 29 CFR § 1910.1030, and applicable **“Standard Interpretations”** thereof that the United States Department of Labor, Occupational Safety and Health Administration issues, which are

available at [https://www.osha.gov/laws-](https://www.osha.gov/laws-regs/standardinterpretations/standardnumber/1910/1910.1030%20-%20Index/result)

[regs/standardinterpretations/standardnumber/1910/1910.1030%20-](https://www.osha.gov/laws-regs/standardinterpretations/standardnumber/1910/1910.1030%20-%20Index/result)

[%20Index/result](https://www.osha.gov/laws-regs/standardinterpretations/standardnumber/1910/1910.1030%20-%20Index/result) , including but not limited to the following “Standard

Interpretations, incorporated herein by reference, as amended and supplemented:

“Body art” means the practice of physical body adornment [in permitted establishments by operators utilizing, but not limited to,] **using** the following techniques,

but does not include ear piercing:

1.-3. (No change.)

...

“Branding” means [scarification through] the application of a heated material (usually metal) to the skin, creating a serious burn [which] **that** eventually results in a scar.

“Camouflage” means **a body art procedure that a permanent cosmetics practitioner performs to restore** the [application] **appearance, by means of pigment insertion,** of [pigment into] skin **that has been** altered by [scars, pigment loss or color abnormalities of the skin so as to make the area appear to be part of the natural, surrounding skin. Examples include treatment of patients with scars from hair transplants, accidents, face lifts, breast reduction, as well as pigment abnormalities including vitiligo]:

1. An injury (such as scarring resulting from an accident, a burn, or a communicable disease such as varicella or measles);

2. A clinical condition (such as pigment loss resulting from vitiligo);

and/or

3. The clinical treatment of an injury, an illness, or a clinical condition (such as scarring that results from surgery or the application of hair transplants, and hyperpigmentation that results from chemotherapy).

...

“Communicable disease[s]” means “**communicable** disease[s or conditions diagnosed by a licensed physician as being contagious or transmissible which include, but are not limited to, the following,

1. Chickenpox;
2. Diphtheria;
3. Measles;
4. Meningococcal Disease;
5. Mumps;
6. Pertussis (whooping cough);
7. Plague;
8. Rubella;
9. Scabies;
10. Staphylococcal skin infection (boils, infected wounds);
11. Streptococcal infections (strep throat);
12. Tine (ring worm);
13. Tuberculosis]” as **N.J.A.C. 8:57** defines that term.

“Concealment” means a body art procedure that a tattoo or permanent cosmetics practitioner performs to change the appearance of an atypical area of skin or existing body art by covering the area with patterns, pictures, or legends;

provided a tattoo artist shall not perform concealment to restore the appearance of skin altered by an injury, an illness, or the treatment thereof, that is, to perform camouflage.

...

“Cutting” (also known as scarification) means [a] creating a design using either acid, a sharp blade, knife, or other implement or device not designed nor intended for the purposes of performing body art to cut [into the] skin or other soft tissue [using a sharp blade], leaving a scar [. Often]; often, the cut skin is rubbed with ink, leaving a colored raised scar. This definition shall not include microblading when performed by a health care provider, permanent cosmetics practitioner or apprentice.

...

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

1. Disinfection for purposes of preparing jewelry for initial body piercing consists of:

- i. Thorough cleaning of the jewelry in an ultrasonic cleaner;**
- ii. Soaking the jewelry in a solution of 70 percent to 90 percent isopropyl alcohol for 15 minutes; and**
- iii. Allowing the jewelry to air dry prior to packaging.**

“Ear piercing” means the puncturing of [ear lobe and the trailing edge of the ear] using a pre-sterilized single use stud and clasp ear piercing system following manufacturer’s instructions.

“Establishment” means a physical place of business[,] **that is** permanent in nature, and includes all areas used by [a] **persons performing** body art [technician] **or ear piercing** and **their** clients, including, but not limited to, treatment areas and waiting/reception area.

...

“Hand hygiene guideline” means CDC, *Guideline for Hand Hygiene in Health-Care Settings: Recommendations of the Healthcare Infection Control Practices Advisory Committee and the HICPAC/SHEA/APIC/IDSA Hand Hygiene Task Force*, MMWR 2002;51(16)(RR16):1-44, as amended and supplemented, incorporated herein by reference, and available at <https://www.cdc.gov/handhygiene/providers/guideline.html>.

“Health authority” means a [Registered Environmental Health Specialist] **registered environmental health specialist** or [Health Officer] **health officer** representing the [New Jersey] Department [of Health and Senior Services] or [the] a local health [Department] **agency with jurisdiction**.

“Health care provider” means a physician or physician assistant whom the State of New Jersey licenses pursuant to Title 45 of the Revised Statutes and who is acting within the licensee’s applicable scope of practice, as determined by the applicable licensing board.

...

“HIV” means human immunodeficiency virus, in accordance with the Revised Surveillance Case Definition at <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr6303a1.htm>.

...

“Lip” means either of the two [fleshly] **fleshy** parts or folds that surround the mouth or oral cavity and are used for human speech.

...

[“Medical grade gloves” means a Food and Drug Administration (FDA) Class I medical device made of natural rubber, vinyl or synthetic material (that is, neoprene, polyvinyl chloride, styrene butadiene) that is worn to prevent contamination between client and practitioner.]

“Measure of pH” or “pH” means the acidity or alkalinity of a solution relative to the pH scale.

“Medical gloves” means gloves that are a “device” within the meaning of that term at Department 201(h) of the Federal Food, Drug, and Cosmetic Act, [21 U.S.C. 321\(h\)](#), and that comport with the medical device standards at 21 CFR Parts 878, 880, and 895 for surgeons’ gloves and patient examination gloves.

- e. Pursuant to a Final Rule of the Food and Drug Administration of the United States Department of Health and Human Services, the following are banned devices: powdered surgeons’ gloves, powdered patient examination gloves, and absorbable powder for lubricating surgeons’ gloves. 81 FR 91722 (published December 19, 2016; effective January 18, 2017), available at <https://www.federalregister.gov/d/2016-30382>.**

“Microblading” means a permanent cosmetics procedure performed with a configuration of needles attached to a handle, often described as a blend

between a scalpel and a fine-tooth comb, to manually create small cuts that resemble eyebrow hairs that are then filled in with ink to achieve the appearance of fuller brows, and as further described in the National Environmental Health Association, *Policy Statement on Microblading* (Denver, CO, July 2018), incorporated herein by reference, as amended and supplemented, available at https://www.neha.org/sites/default/files/publications/position-papers/NEHA_Policy_Statement_Microblading_FINAL.pdf.

“Minor” means a person under 18 years of age.

...

“Occupational exposure” means occupational exposure as the bloodborne pathogens standard defines that term.

...

“Permanent cosmetics[,]” or “micropigmentation” [or “dermal pigmentation”] means the **intra**dermal implanting of inert pigments, colors, and/or dyes [intra**der**mally], which results in permanent alteration of tissue to gain a cosmetic effect, **and includes the form of micropigmentation known as “microblading.”**

...

[“Physician” means a person who is licensed by the State Board of Medical Examiners to practice medicine, pursuant to N.J.S.A. 45:9-1, 26:1A-9 et seq.]

...

“Pigment” means “color additive” as 21 CFR Part 70, particularly at § 70.3, defines that term.

...

“Public Health and Food Protection Program” means the Public Health and Food Protection Program within the Consumer, Environmental, and Occupational Health Service of the Division of Epidemiology, Environmental and Occupational Health within the Public Health Services Branch of the Department, for which the contact information is Public Health and Food Protection Program, PO Box 369, Trenton, NJ 08625-0369, telephone (609) 913-5150.

“Responsible person” means an adult who is a practitioner and whom the operator specially trains in the obligations and duties of an operator.

“Safety data sheet” means “safety data sheet” as the hazard communication standard at 29 CFR § 1910.1200 defines that term.

“Single use” means [products, instruments, or items that are intended for one-time use] to be used one time for only one client and [are] to be discarded after [each] use [including, but not limited to,].

- e. Examples of single-use items are** cotton swabs, cotton balls, tissues, paper products, paper or plastic cups, gauze, dressings, bandages, sanitary coverings, razors, needles, [scalpel blades], stencils, [ink] pigment cups, gowns, markers, and medical gloves.

“Society of Permanent Cosmetic Professionals” means the entity by that name for which the contact information is 69 N Broadway St, Des Plaines, IL 60016, telephone (847) 635-1330, website <https://www.spcp.org>.

“SofTap®, Inc.” means the entity by that name for which the contact information is 550 North Canyons Parkway, Livermore, CA 94551, telephone (925) 248-6301, website <https://www.softaps.com>.

“Standard precautions” means Parts II D, E, and F of Siegel JD, Rhinehart E, Jackson M, Chiarello L, and the Healthcare Infection Control Practices Advisory Committee, 2007 *Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, incorporated herein by reference, as amended and supplemented (last update July 2019) , available at <https://www.cdc.gov/infectioncontrol/guidelines/isolation/index.html>, provided references therein to:

1. The term, “healthcare facility,” “healthcare organization,” and the like shall be construed to mean an establishment;

2. The term, “healthcare worker,” “healthcare professional,” and the like shall be construed to mean a practitioner, apprentice, and other staff with occupational exposure; and

3. The term, “patient” shall be construed to mean client.

...

“Trainer or instructor of permanent cosmetics” means a permanent cosmetics practitioner holding one or more of the following credentials:

1. American Academy of Micropigmentation Board Certified Platinum Trainer;

2. Society of Permanent Cosmetic Professionals Trainer Membership; or

3. SofTap®, Inc., Trainer.

...

["Universal precautions" means a set of guidelines and controls, published by the Center for Disease Control and Prevention (CDC) as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in MMWR, July 12, 1991, Vol. 40, No. RR-8., both incorporated herein by reference. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.]

...

SUBCHAPTER 2. ADMINISTRATION

8: 27-2.1 Procedure to locate and construct establishment

(a) [Any person desiring to construct, expand, alter, or operate a permanent cosmetic, tattooing, or ear or body piercing establishment] **An operator** shall apply in writing to the [local] health authority for review and approval before [such] **commencing the** construction, expansion, alteration, or operation [is begun. Such application] **of a body art or ear-piercing establishment, in which the operator** shall [include] **submit at least** the following information;

1.-3. (No change.)

4. A complete description of all services to be provided, the proposed hours of operation, the name of the operator, [and] the names of all **regular** practitioners and [their exact duties] **the body art or ear piercing disciplines that they will perform at the establishment**, [a copy of] the **forms of written** informed consent **that are to be presented to clients** for each **type of** procedure **that the establishment proposes to offer**.

i. **An operator shall notify the health authority before persons other than listed regular practitioners, such as apprentices, occasional or temporary practitioners, or health care providers, are to perform body art or ear piercing services at the establishment, and shall obtain the same documentation that operators are to obtain from practitioners and apprentices pursuant to N.J.A.C. 8:27-4.8, and ear piercing practitioners pursuant to N.J.A.C. 8:27-9.6.**

8:27-2.6 Prohibitions

[(a) A person who violates a prohibition under this Department shall be subject to enforcement action authorized by this chapter, civil penalties as provided by N.J.S.A. 26:1A-10 and all other applicable law and/or injunctive action as provided by law.

1. Implants under the skin shall not be performed in a body art establishment.

2. Scarification such as branding and cutting [shall not be performed in a body art establishment.

3. No person shall perform any]

(a) Operators shall ensure that the following prohibited activities do not occur at a body art or ear-piercing establishment:

- 1. The implantation of any object under the skin;**
- 2. The performance of scarification or the removal of pigment by laser;**
- 3. The performance of a body [piercing] art or ear-piercing procedure upon a [person under 18 years of age] minor without the presence, written consent and proper identification of a parent or legal guardian[.], unless the minor provides a court order declaring the minor to be emancipated;**
4. [No person shall perform] **The performance of** genital piercing upon a person under 18 years of age regardless of parental consent[.
5. No tattoo or permanent cosmetics shall be applied to any person under 18 years of age, without the presence, written consent, and proper identification of a parent or legal guardian.
6. No person shall practice or attempt to practice body art in a non-licensed facility.
7. No person shall operate a facility];
- 5. The use of a high-impact stud-and-clasp piercing system on the trailing edge of the ear or at any body location other than the earlobe;**
- 6. The performance of the disciplines of areola restoration or camouflage other than at a permanent cosmetics establishment in accordance with N.J.A.C. 8:27-8.1.**
- 7. The operation of a body art or ear-piercing establishment other than in accordance with applicable requirements of this chapter; and**

8. The performance of body art or ear piercing in an establishment unless [it is at all times under the direct supervision of an] **the operator**].

8. No person shall display a sign or in any way advertise or purport to be a body art practitioner or to be engaged in the business of body art without first obtaining a license or permit for the facility from the health authority.

(b) An emancipated minor shall be exempt from (a)3 and 5 above upon legal proof documenting said emancipation] **or a responsible person is present on the premises and supervising the establishment, provided:**

i. Notwithstanding the operator's designation of a responsible person, the operator retains responsibility for compliance and liability associated with any action or inaction on the part of the responsible person.

(b) The following constitute the unlawful practice of body art and are subject to the enforcement proceedings, civil penalties, and other applicable remedies as provided in (c) below:

1. Advertisement or performance of a body art or ear-piercing procedure for which this chapter requires an operator's license by a person who does not have an operator's license or whose license is not in effect and good standing; and

2. The performance by any person, regardless of licensure status, of any activity that (a) above prohibits.

(c) A person who commits an act prohibited pursuant to (a) above or engages in the unlawful practice of body art pursuant to (b) above is subject to the

enforcement actions established at N.J.A.C. 8:27-11, civil penalties as provided at N.J.S.A. 26:1A-10, and other applicable remedies, sanctions, and/or injunctive relief provided by law.

SUBCHAPTER 4. [HEALTH SAFETY] CLIENT AND OCCUPATIONAL HEALTH AND SAFETY

8:27-4.1 Scope

This subchapter applies to body art establishments.

Recodify existing N.J.A.C. 8:27-4.1 and 4.2 as new **4.2 and 4.3** (no change in text).

8:27-4.4 Health care provider instruction required for certain procedures

(a) A permanent cosmetics practitioner who is credentialed to perform areola restoration or camouflage shall do so in accordance with specific written instructions issued by the client's health care provider, which the practitioner shall maintain with the client's application.

(b) Subsection (a) above does not apply to concealment procedures, which can be performed by both permanent cosmetics and tattoo practitioners.

8:27-[4.4] 4.5 Emergency management

(No change in text.)

8:27-[4.5] **4.6 [Reporting] Operator reporting requirements**

(a) [A] **Operators shall ensure that:**

1. The establishment creates a written record of [any] reports it receives from clients or health care providers of adverse reactions, such as infection[s reported to the practitioner], after the performance of a body art procedure [is performed shall be maintained in the client's application. The record shall include].

i. The written record shall identify the site of the [infection] reaction, the date [an infection was reported to] the [practitioner] client first perceived the reaction, the date the establishment received the report, and the establishment's recommendations [made] to the client[.

(b) All infections requiring a medical referral, allergic reactions to colorants or injuries resulting from any body art procedure which become known to the operator shall be reported] to **respond to the adverse reaction;**

2. The establishment maintains a written record of adverse reaction created pursuant to (a)1 above with the client application for the procedure; and

3. The establishment notifies the local health authority within 24 hours[. The health authority shall report such infections/injuries to the Department of Health and Senior Services in January of each year.] of receiving the report, either by telephone or in person, and then in writing within two business days of receiving the report if:

i. The client obtained or states an intention to obtain medical treatment for the reaction;

- ii. **The establishment recommends that the client seek medical treatment; or**
- iii. **The adverse reaction is or appears to be an allergic response to pigment.**

8:27-[4.6] **4.7 Hand washing, use of standard precautions, infection control, bloodborne pathogen training, and record maintenance.**

(a) (No change.)

(b) [Before performing] **Operators shall ensure that before, during, and after the performance of** body art procedures, [the] practitioners [shall thoroughly wash his or her in hot] **and apprentices adhere to the Hand Hygiene Guideline.**

(c) **A portion of the Hand Hygiene Guideline addressing appropriate hand-washing procedure is summarized below for convenience, but operators are to ensure adherence to the full Hand Hygiene Guideline:**

1. Remove all jewelry surrounding the hands, inclusive of rings, watches and bracelets;

2. Turn on warm, running water [with liquid], wetting hands, and apply dispensed soap in foam or liquid form[, then rinse];

i. Operators that provide a reusable soap dispenser for practitioner handwashing shall ensure that the dispenser is emptied and cleaned before being refilled;

3. Rub the hands[, then rinse and dry] together to make a soapy lather, including:

- i. **All fingers;**
- ii. **Between fingers;**
- iii. **Thumbs, nails, cuticles, wrists, palms, and the tops of hands; and**
- iv. **Forearms up to the elbows;**

4. Rinse the hands and arms with the palms and fingers pointed upward toward the faucet and the water running downward toward the elbows, to the extent physically possible, and at least with the wrists bent so that they are at the lowest point;

5. Patting the hands dry with a clean disposable paper towel[s];

- i. **Practitioners shall ensure that hands are completely dry before applying medical gloves; and**

6. Using a new clean disposable paper towel to turn off the faucet handles.

[(c) The practitioner shall wear disposable medical grade gloves at all times during the procedure.

(d) Gloves shall be changed if they become contaminated by contact with any non-clean surfaces, objects, contact with a third person, or torn.

(e) Gloves shall be discarded after completion of each procedure on an individual client.

Under no circumstances shall a single pair of gloves be used on more than one person.

(f) At the completion of the procedure, the practitioner shall dispose of the gloves and they shall be thoroughly washed.

(g) Written]

(d) Operators shall establish written policies and procedures [shall be established for management] **addressing the needs** of employees [or], **practitioners, apprentices,**

and clients [that] who have latex allergies and shall supply alternatives to latex medical gloves and other latex-containing items to which practitioners, apprentices, and clients who have latex allergies may be exposed in the establishment.

(e) Operators shall ensure that practitioners and apprentices adhere to applicable provisions of the standard precautions and the bloodborne pathogens standard before, during, and after the performance of body art procedures and whenever a practitioner, and apprentice, or another worker has actual or potential occupational exposure.

(f) Portions of the standard precautions and bloodborne pathogens standard relating to personal protective equipment are summarized in (g) below for convenience but operators shall ensure adherence to the full standard precautions and bloodborne pathogens standard.

(g) Operators shall ensure that whenever a practitioner, an apprentice, or another worker has actual or potential occupational exposure, the practitioner, apprentice, or other worker shall wear:

- 1. A single-use fluid-impervious gown;**
- 2. Medical gloves and, if they tear or become contaminated by contact with any non-clean surfaces, objects, or a third person, shall change to new medical gloves;**
- 3. A fluid-resistant mask and, if it becomes splattered or moist with blood or body fluids, shall change to a new mask; and**

4. Protective eyewear that covers all exposed skin and mucous membranes of and around the eyes.

(h) Operators shall establish and implement policies and procedures to ensure that:

1. The skin of practitioners and apprentices is free of rash or infection;

2. Persons who have boils, infected wounds, open sores, abrasions, and/or weeping dermatological lesions do not work in or be present at a body art establishment until the operator has and maintains written documentation, issued by the person's health care provider, indicating that the condition is neither transmissible nor communicable;

3. Practitioners, apprentices, and workers who have acute respiratory infection or suspected or confirmed communicable disease are not present at the body art establishment and do not return to the establishment until the operator receives written documentation of a health care provider indicating that the condition is not transmissible, which documentation the operator shall maintain in the establishment's file on the affected practitioner, apprentice, or worker;

i. Paragraph (h)3 above shall not be construed to prevent exclusion of persons with bloodborne diseases, such as Hepatitis B & C, and HIV from performing body art in a body art establishment.;

4. All practitioners, apprentices, and workers, including those having suspected or confirmed infection with bloodborne diseases, adhere to the standard precautions and the bloodborne pathogens standard;

5. At an operator's expense and on the operator's time, the operator offers employees (who may include practitioners and apprentices) the hepatitis B vaccination in accordance with the bloodborne pathogens standard, written evidence of which offer the operator maintains in the establishment's file on each employee; and

6. Practitioners, apprentices, and, at the operator's expense and on the operator's time, employees (who may include practitioners and apprentices) annually receive and successfully complete a bloodborne pathogens course that meets the bloodborne pathogens standard for employee training, and the operator maintains a copy of the certificate of completion issued by the training program in the establishment's file on each practitioner, apprentice, and employee.

i. The training requirement of the bloodborne pathogens standard requires employers to provide "site-specific information and allow ... an opportunity for interactive questions and answers with the person conducting the training session." See Occupational Safety and Health Administration, United States Department of Labor, Standard Interpretation: Obligations of establishments that provide tattoos and body piercing under OSHA's Bloodborne Pathogens Standard, Standard No. 29 CFR §1910.1030(g)(2) (June 20, 2016), available at

<https://www.osha.gov/laws-regs/standardinterpretations/2016-06-20-0>;

ii. Operators that enroll in the On-Site Consultation Program of the New Jersey Department of Labor and Workforce Development can receive

bloodborne pathogens and other OSHA compliance guidance and training without charge. See

[https://www.nj.gov/labor/lsse/employer/Occupational Safety and Health Onsite Consultation Program.html](https://www.nj.gov/labor/lsse/employer/Occupational_Safety_and_Health_Onsite_Consultation_Program.html).

8:27-4.8 Minimum standards for operators of body art establishments in the appointment of practitioners and apprentices

(a) The operator of a body art establishment shall:

1. Allow only qualified practitioners and apprentices, as specified in N.J.A.C. 8:27-6.1, 7.1, and/or 8.1, as applicable, to perform body art procedures at the establishment;

2. Require practitioners to present documentation that each practitioner meets the qualifications at N.J.A.C. 8:27-6.1, 7.1, and/or 8.1, as applicable, subject to (b) below;

3. Require apprentices to present documentation of each apprentice's successful completion of a bloodborne pathogens course, subject to (b) below;

4. Maintain a personnel or apprenticeship file on each person that the operator allows to perform or study the particular body art discipline that the establishment is authorized to provide, and retain therein copies of the documentation that operators are to obtain from practitioners and apprentices pursuant to (a)3 above; and

5. Make each personnel and apprenticeship file available for Department or health authority inspection upon request.

(b) In accordance with the bloodborne pathogens standard, particularly at 29 CFR §1910.1030(g)(2), an operator who employs a person to work in an establishment shall:

1. Train each employee who has occupational exposure, at no cost to the employee and during working hours; and

2. Institute a training program and ensure employee participation in the program.

8:27-4.9 Pigments

(a) Operators shall ensure that pigments that practitioners and apprentices use to perform body art:

1. Comply with applicable Federal standards, such as the Federal Food, Drug, and Cosmetic Act, Title 21 of the U.S.C., and regulations promulgated pursuant thereto at Title 21 of the CFR, including standards for color additives;

2. Are nonirritating to tissue, stable to light, and inert to tissue metabolism;

3. Do not contain substances that are known to be human carcinogens or may reasonably be anticipated to be human carcinogens, as specified in National Toxicology Program, Report on Carcinogens, Fourteenth Edition (2016), Research Triangle Park, NC, United States Department of Health and Human Services, Public Health Service, incorporated herein by reference, as amended and supplemented available at <https://ntp.niehs.nih.gov/go/roc14>;

4. Do not contain substances at exposure levels that are known, or may reasonably be anticipated, to have adverse noncancer health effects as

determined by the National Toxicology Program, which are listed at <https://ntp.niehs.nih.gov/whatwestudy/assessments/noncancer/index.html>, as amended and supplemented;

5. Are stored out of direct sunlight; and
6. Are not subjected to autoclave processing.

(b) Operators shall ensure that practitioners and apprentices:

1. Apply pigments using single-use, individual pigment containers for each client;
2. Remove excess pigment applied to the skin with single-use, lint-free paper products;
3. Record the pigments used for each procedure, including the lot number of each pigment, in the client record of the procedure; and
4. Use pigment removal solutions bearing labels that list their ingredients, including percentages of active ingredients, measure of pH, preservatives, and directions for use.

(c) Operators shall:

1. Obtain from pigment suppliers the safety data sheet for each pigment in use at the establishment; and
2. Maintain and make the safety data sheets, for pigments, topical anesthetics, and disinfectants, available to employees in accordance with applicable Federal and State occupational health and safety laws, and, upon request, to practitioners, apprentices, clients, and health authorities.

SUBCHAPTER 6. BODY PIERCING

8:27-6.1 [Training requirements] **Qualifications of body piercing practitioners and apprentices**

[(a) An operator shall furnish proof of having experience in the operation of a body piercing facility for a period of at least 12 months and shall furnish all the following forms of proof to fulfill this experience requirement:

1. A signed testament from a previous employer that the applicant has been piercing professionally at least one full year;
2. A business license, business records or purchasing records verifying that the applicant operates out of a legitimate business;
3. The make, model and serial number of applicant's autoclave listed on the back of a photograph of the autoclave; and
4. One or more samples of the applicant's advertising.]

[(b) A] **(a) To qualify as a body piercing practitioner, a person** shall [perform the art of] **submit to the establishment operator originals, or electronic or paper copies, of:**

1. Records demonstrating that the person has completed an apprenticeship in body piercing [at a body piercing facility as an apprentice for a minimum of 1,000 hours prior to being qualified as a practitioner and shall] **consistent with (b) below, such as:**

[1. Furnish business records, which may include tax]

i. Tax records[, references];

ii. References from former employers[, or certificates of course];

iii. **Certificates or diplomas indicating the person's** completion [or memberships] **of an apprenticeship;**

iv. **Membership in good standing** in a professional **body piercing** organization[s such as the Association of Professional Piercers or other organizations recognized by the New Jersey Department of Health and Senior Services] **that conditions membership on the applicant's documentation to the organization of education and experience that are at least equivalent to the apprenticeship criteria at (b) below;**

(A) Upon information and belief, and subject to verification as that entity might amend and supplement its membership criteria, membership as a "business member," a "business member-at-large," and/or an "associate piercer member," of the Association of Professional Piercers, <https://www.safepiercing.org>, meets the apprenticeship criteria at (b) below;

2. [Submit a minimum of] **At least 10 [original] client applications, accompanying adverse reaction reports (if applicable), and photographs (or digital images)** of [various] body piercings [which] **that** the practitioner has personally performed [and a minimum of three signed testimonials from previous clients; and

3. Provide evidence of completion of a bloodborne pathogen course from the American Red Cross, the Association of Professional Piercers or a provider approved by the New Jersey Department of Health and Senior Services].

[(c) An]

(b) A completed apprenticeship consists of the apprentice [shall perform the art of] **having performed** body piercing at a body piercing [facility] **establishment** as an apprentice for a minimum of 1,000 hours under the direct supervision of a practitioner.

8:27-6.2 Jewelry

(a) [All] **Operators shall ensure that jewelry used in initial** body piercing [shall be made of high quality 14 karat solid gold, surgical grade stainless steel, niobium, titanium, platinum or inert plastics.] **is:**

1. Compliant with the Association of Professional Piercers Initial Jewelry Standards (adopted February 05, 2009, most recent revision approved May 28, 2019), incorporated herein by reference, as amended and supplemented, available at <https://www.safepiercing.org/jewelry-for-initial-piercings/>;

[(b) All insertable jewelry shall be sterilized.]

2. Sterilized or disinfected[, pursuant to the following, prior to insertion at a new piercing site. Disinfection shall include the following:

1. Thorough cleaning of the jewelry in an ultrasonic cleaner;
2. Soaking the jewelry in a solution of 70 percent to 90 percent isopropyl alcohol for 15 minutes; and
3. Allowing the jewelry to air dry prior to packaging.

(c) Jewelry that shall];

3. If not [be] immediately used after disinfection [shall be], packaged in a [zip lock] heat-sealed or zipper-topped (such as a Ziploc®) plastic bag[.

(d) Jewelry that is damaged, scratched, intended for ear piercing, or not expressly designed for body piercing shall not be used.

(e) Jewelry made of silver, gold plated or gold filled or other corrosive metal shall not be used.

(f) Body piercing jewelry];

4. If manufacturer-designated only for use in or at specified body parts or areas, is used only in the designated locations on the body and is not used in other body locations; and

5. If previously worn by anyone other than the client [shall be], is cleaned and autoclaved[.

(g) Jewelry or ear studs designed for the ears shall not be used in other parts of the body] **and the operator shall ensure that the client receives written notice of the jewelry's pre-worn status before use.**

8:27-6.3 Skin preparation

(a) [No] **Operators shall ensure that practitioners and apprentices:**

1. Do not perform body piercing procedures [shall be done] on **or at** skin surfaces [which] **that** have sunburn, rash, keloids, pimples, boils, infection[s], open lesion[s], **or** scar tissue, or manifest [any evidence] **an indication** of **an** unhealthful condition[s.];

2. Thoroughly disinfect the area at which a body piercing is to be located before marking the specific placement area; and

[(b) Placement of the]

3. Mark areas at which body piercings are to be [pierced shall be marked] **placed using** only [with a medical grade] **medical-grade**, non-toxic, **single-use** markers [after the area is thoroughly disinfected. Gentian violet may be utilized] **or**, for marking [of] **an oral piercing location, gentian violet applied with a single-use applicator.**

[(c) Markers shall not be reused.]

SUBCHAPTER 7. TATTOOING

8:27-7.1 [Training] **Qualifications of tattooing practitioners and apprentices**

[(a) An operator shall furnish proof of having experience in the operation of a tattooing facility as a full-time occupation or a designated operator for a period of at least 12 months and shall furnish all the following forms of proof to fulfill this experience requirement:

1. A signed testament from a previous employer that the applicant has been piercing professionally at least one full year;
2. A business license, tax records, business records or purchasing records along with other proof that the applicant operates out of a legitimate business;
3. The make, model and serial number of applicant's autoclave listed on the back of a photograph of the autoclave; and
4. One or more samples of the applicant's advertising.]

[(b) A] **(a) To qualify as a tattooing practitioner, a person shall [have performed the art of] submit to the establishment operator originals, or electronic or paper copies, of:**

1. Records demonstrating that the person has completed an apprenticeship in tattooing [as an apprentice for a minimum of 2,000 hours [prior to being qualified as a practitioner and shall] **consistent with (b) below, such as:**

[1. Furnish business records, which may include tax]

i. Tax records[, references];

ii. References from former employers[, or certificates of course];

iii. Certificates or diplomas indicating the person's completion [or memberships] **of an apprenticeship;**

iv. Membership in good standing in a professional **tattooing** organization[s] such as the Alliance of Professional Tattooists [or other organizations recognized by the New Jersey Department of Health and Senior Services], **Inc., that conditions membership on the applicant's documentation to the organization of education and experience that are at least equivalent to the apprenticeship criteria at (b) below; and**

2. [Submit a minimum of] **At least 10** [original] **client applications, accompanying adverse reaction reports (if applicable), and photographs (or digital images)** of tattoos [which] **that** the tattooist has personally performed [and a minimum of three signed testimonials from previous clients; and

3. Provide evidence of completion of a bloodborne pathogen course by the American Red Cross, Alliance of Professional Tattooists, or a provider approved by the New Jersey Department of Health and Senior Services].

[(c) An] **(b) A completed apprenticeship consists of the** apprentice [shall perform the art of] **having performed** tattooing at a tattooing [facility] **establishment** as an apprentice for a minimum of 2,000 hours under the direct supervision of a practitioner.

SUBCHAPTER 8. PERMANENT COSMETICS

8:27-8.1 Qualifications of permanent cosmetics practitioners and apprentices

(a) Subject to (d) and (e) below, a person is a qualified permanent cosmetics practitioner if the person:

1. Successfully completes the basic training program in permanent cosmetics specified at (b) below, evidence of which is an original certificate, diploma, or other documentation that a training program issues to indicate successful completion; and

2. Subject to (c) below, under the direct supervision of a trainer or instructor, personally performs permanent cosmetics procedures of the types and quantities of each specified below, evidence of which is a copy of the client application for each procedure and a photograph of the completed permanent cosmetics procedure that corresponds to each client application:

- i. Five eyebrow simulation procedures;**
- ii. Five lip lining or shading procedures; and**
- iii. Five eyeliner or eyelash enhancement procedures.**

(b) A basic training program shall require an apprentice to:

1. Successfully complete at least 100 hours of training provided by one or more trainers or instructors, and

2. Obtain a passing grade on one of the following examinations:

i. American Academy of Micropigmentation permanent cosmetics practitioner examination;

ii. Society of Permanent Cosmetic Professionals certified permanent cosmetic professional examination; or

iii. SofTap®, Inc., permanent cosmetics practitioner examination.

(c) As an alternative to meeting the criteria at (a)2 above, a person who performs procedures of the type and in the quantity specified in (a)2 above, but not under the direct supervision of a trainer or an instructor, shall perform one additional permanent cosmetics procedure of each type specified in (a)2 above, and the subsequent follow-up or touch-up of that procedure, under the direct supervision of a trainer or an instructor, evidence of which is a copy of the client application for the procedure that the trainer or instructor verifies as the apprentice's work by signature, date, and credential, and a photograph of the completed permanent cosmetics procedure that corresponds to the client application.

(d) A person is a qualified permanent cosmetics practitioner in the discipline of areola restoration if the person has the credentials specified in (a) above, and:

1. Completes one full year of experience as a full-time permanent cosmetics practitioner, evidence of which is timesheets, paystubs, an employer or operator certification under the penalty of perjury, or other documentation that enables the health authority to confirm the length of the practitioner's practice experience;

2. Personally performs 50 permanent cosmetics procedures, which can include those that (a)2 above and/or (c)2 below require, evidence of which is a copy of the client application for each procedure and a photograph of the completed permanent cosmetics procedure that corresponds to each client application; and

3. Successfully completes a training program in areola restoration of at least 16 hours in length provided by a trainer or an instructor, evidence of which is an original certificate, diploma, or other documentation that a training program issues to indicate successful completion.

(e) A person is a qualified permanent cosmetics practitioner in the discipline of camouflage if the person has the credentials specified in (a) above, and in addition:

1. Has one full year of experience as a full-time permanent cosmetics practitioner, evidence of which is timesheets, paystubs, an employer or operator certification under the penalty of perjury, or other documentation that enables the health authority to confirm the length of the practitioner's practice experience

2. Personally performs 100 permanent cosmetics procedures, which can include those required pursuant to (a)2 and/or (d)2 above, evidence of which is a copy of the client application for each procedure and a photograph of the completed permanent cosmetics procedure that corresponds to each client application; and

3. Successfully completes a training program in camouflage of at least 16 hours in length provided by a trainer or an instructor, evidence of which is an

original certificate, diploma, or other documentation of successful completion that a training program issues.

(f) An operator of a permanent cosmetics establishment shall not allow the performance of permanent cosmetics procedures in the disciplines of areola restoration or camouflage unless:

1. The operator's license names the permanent cosmetics practitioner who is to perform areola restoration or camouflage procedures as qualified in that discipline; or

2. The person who is to perform areola restoration or camouflage procedures is a health care provider, provided:

i. The operator's license identifies the name and licensure status of health care provider pursuant to (f)1 above; or

ii. The operator gives the local health authority advance notice of the name and licensure status of the health care provider at least one business day before the performance of the procedures at the establishment.

8:27-8.3 Minimum standards for permanent cosmetics apprenticeship programs

(a) The operator of permanent cosmetics establishment that elects to offer an apprenticeship program in permanent cosmetics shall ensure that the apprenticeship program meets, and adheres to, the following minimum standards:

1. Persons who are to train apprentices are trainers or instructors, evidence of which the operator shall submit to the health authority as part of the

establishment's application for licensure pursuant to N.J.A.C. 8:27-2.5 as a body art establishment that provides apprenticeship training;

2. The theoretical and practical components of the apprenticeship program curriculum meet or exceed the curriculum for the basic permanent cosmetics training program of the Society of Permanent Cosmetic Professionals, the American Academy of Micropigmentation, or SofTap®, Inc.;

3. Upon successful completion of an apprenticeship program, an apprentice shall have performed under the direct supervision of one or more trainers or instructors at least five:

- i. Eyebrow simulation procedures;**
- ii. Lip lining or shading procedures; and**
- iii. Eyeliner and/or eyelash enhancement procedures;**

4. Subject to subparagraph 6 below, no trainer or instructor shall serve as the supervising trainer or instructor of more than four apprentices who are physically present at the same time in an establishment to perform apprenticeship duties;

5. An operator shall not allow an apprentice to perform a permanent cosmetics procedure on person unless, during the performance of the procedure, the apprentice's supervising trainer or instructor constantly is:

- i. Present in person in the workstation and not performing procedures on another client at the same time; and**
- ii. Visually observing the apprentice and the person receiving the procedure;**

6. A trainer or an instructor shall not supervise the performance of a permanent cosmetics procedure by more than one apprentice at a time;

7. An operator contemporaneously shall maintain, during each day of an apprentice's training, a log that identifies the dates and hours the apprentice trains each day, the persons serving as the apprentice's supervising trainers or instructors each day, the types of procedures performed and training provided each day in hours, and the status of the apprentice's efforts to complete each of the minimum curriculum components at (a)3.

8. Regardless of whether an apprentice completes an apprenticeship program, an operator shall:

i. Retain the log that (a)7 above requires for five years from the commencement of the apprenticeship, provided the operator shall maintain the log onsite for at least the six months following an apprentice's completion or discontinuation of an apprenticeship; and

ii. Provide a copy of the apprentice's logged activity to the apprentice in accordance with (a)9 below;

9. An operator shall provide a copy of an apprentice's activity log to a current or former apprentice:

i. Within one business day of a request, if the operator maintains the log onsite of the establishment premises; and

ii. Within 10 business days of a request if the operator maintains the log other than onsite.

8:27-8.4 Skin preparation for permanent cosmetics procedures

(a) Operators shall ensure that practitioners and apprentices:

- 1. Comply with N.J.A.C. 8:27-4.7 before preparing a client's skin for the application of permanent cosmetics; and**
- 2. Prepare a client's skin at the site of the permanent cosmetics application by:**

- i. Cleaning the skin thoroughly with dispensed soap, in foam or liquid form, and water;**
- ii. Applying isopropyl alcohol of at least 70 percent concentration the permanent cosmetics application site; and**
- iii. Allowing the skin to dry before commencing the procedure.**

8:27-8.5 Practice standards for permanent cosmetics procedures

(a) Operators shall establish and implement policies and procedures that ensure that, in performing permanent cosmetics procedures, practitioners and apprentices, as applicable:

- 1. Discard single-use devices after use;**
- 2. Administer, and have the client execute, a new client application form in accordance with N.J.A.C. 8:27-4.2 by and with each client who requests a touch-up of prior permanent cosmetics work of the establishment if more than 180 days have elapsed since the performance of the prior work.**
- 3. Administer after-care instruction before each procedure;**

4. Do not allow to remain in a procedure room, when not in use, opened over-the-counter cosmetics that are for use by or on members of the public;

5. Do not perform permanent cosmetics procedures on skin surfaces that have sunburn, rash, keloids, pimples, boils, infections, or open lesions, or bear indicia of illness or unhealthful conditions; and

6. Do not perform permanent cosmetics procedures on persons who are:

i. Pregnant; or

iii. Taking, or took within the preceding year, oral tretinoin or isotretinoin medication.

SUBCHAPTER 9. EAR PIERCING

8:27-9.1 Scope

This subchapter applies to operators of ear-piercing establishments that a health authority authorizes pursuant to N.J.A.C. 8:27-9.2.

8:27-9.2 Approval to operate

(a) [The ear piercing] **A person or entity seeking to operate an ear-piercing establishment shall [obtain a license or permit from] apply to the health authority[. This license shall be renewed] for a license or permit, which shall have an effective period of one year, and annually shall apply for renewal of a license or permit.**

1. [The] **An operator shall display the** license or permit [shall be displayed] in a conspicuous place on the premises where [it may be readily observed by] **clients can readily observe it.**

2. No person shall operate an [ear piercing] **ear-piercing** establishment [whose] **without a** license or permit **that is in good standing and** has **not** been suspended **or** **revoked**.

8:27-9.3 Client records

(a) [All] **Operators shall retain** client records [shall be retained] for a minimum of three years and [made] **make them** available to [the] **a** health authority on request.

(b) [Each client shall] **Subject to (d) below, an operator shall require a person applying for ear-piercing procedures to** complete an application [for ear piercing procedures. The application shall include the following] **that requires:**

1. The **applicant to submit the following information on the application:**

i. **The applicant's** name, date of birth, and address [of the client]; [an emergency]

ii. **The telephone number and name of the applicant's emergency** contact [individual for the client]; [the]

iii. **Whether the applicant is on blood-thinning medication, or has hemophilia, diabetes, allergies, and/or ear cysts; and**

iv. **The application date and, if different, the date** of the procedure; [the]

2. **The practitioner to submit the following information on the application:**

i. **The name of the practitioner who [performed] is to perform and does perform** the procedure(s); [the] **and**

ii. **The location on the ear where the procedure [was] is to be performed;** [the signature of the client authorizing the procedure(s)] and[, if the client is a

minor, proof of parental or legal guardian's presence and signature authorizing the procedure(s);

2. An informed consent shall be established for each procedure and shall include an annotation on the informed consent that a verbal and written after care plan has been provided to the client. The informed consent shall minimally consist of the client's signed acceptance of the recommended procedure by the named practitioner, its risks, alternatives, and generally accepted results; and]

3. The [client shall be advised in writing] **practitioner to obtain from the applicant, personally examine, make a photocopy of and affix the copy to the application, an original government-issued photographic identification of the applicant.**

(c) An operator shall ensure that the practitioner who is to perform an ear-piercing procedure:

1. Explains in spoken words the risks associated with the procedure and the after-care instruction; and

2. Obtains the applicant's written informed consent on the application form.

(d) The application form shall provide:

1. A written statement of the risks associated with the procedure;

2. A space at which an applicant is sign;

3. A statement that the applicant's signature indicates that:

i. The applicant's responses to the application questions, including the applicant's disclosure of health conditions, are truthful;

ii. **The applicant understands** that [any blood thinning] **the applicant's use of blood-thinning** medication[s,] **and/or having** medical condition[,],s such as diabetes, allergies, **hemophilia**, and/or cysts, [shall increase] **increase** the risks associated with the procedure and **that, if the client uses blood-thinning medication or has any of these medical conditions**, the client must consult a [physician] **health care provider and submit the provider's authorization and clearance** before [proceeding] **the establishment can proceed** with the ear piercing;

iii. **The applicant understands and accepts the risks associated with the procedure;**

iv. **The applicant consents to the performance of the procedure;**

v. **The government-issued identification that the applicant provides (pursuant to (d) below) is the applicant's authentic identification; and**

vi. **The applicant acknowledges receipt of written and spoken after-care instruction from the practitioner and agrees to adhere to that instruction.**

[(c) Ear] **(d) An operator shall not permit the performance of ear piercing [of] on a [person under 18 years of age shall not be performed] minor** without the written consent **and physical presence** of the **minor's** parent or legal guardian[.

1. The parent or legal guardian shall accompany the client] at the time of the ear piercing, **and shall ensure that:**

1. The parent or legal guardian executes the application as the applicant's parent or legal guardian pursuant to (b) and (c) above;

2. The practitioner who is to perform the procedure personally examines and makes photocopies, which are to be kept with the application, of government-issued identification of the minor, and government-issued photographic identification of the parent or legal guardian, which collectively show the age of both, and the relationship between, the minor and the parent or guardian; and

3. If the information the applicant provides pursuant to (b)1i above is not the same for both the minor and the parent or guardian, then the practitioner shall require a copy of a court order or other official documentation proving that the parent or guardian has custody over the minor.

[2. Government-issued photographic identification (I.D.) of the client shall be provided at the time of the piercing and the I.D. number shall be recorded on the application.

3. Identification of the parent or legal guardian shall be provided at the time of the ear piercing and the name, address, phone number and identification number shall be recorded on the application.]

8:27-9.4 Reporting requirements

[All] (a) An operator of an ear-piercing establishment shall report to the health authority within 24 hours of becoming aware or being informed of infections [requiring a medical referral] or injuries resulting from [ear piercing] ear-piercing procedures [which become known to the operator [shall be reported to the local health authority] performed at the establishment]. [The]

(b) A health authority that receives reports pursuant to (a) above shall submit those reports [such infections/injuries] to the Department [of Health and Senior Services] in the succeeding January of each year.

8:27-9.5 Hand washing and personal hygiene

(a) [When] **Operators shall ensure that practitioners** performing ear piercing[s, the practitioner shall maintain]

1. Maintain a high standard of personal cleanliness, which shall include wearing clean outer garments, washing **their** hands after smoking, eating, drinking, or visiting the restroom[;

(b) Before] **and before** performing each [ear piercing] **ear-piercing** procedure, [the practitioner shall first thoroughly wash his or her hands in hot running water using liquid soap, then rinse his or her hands using hot running water, and dry his or her hands using clean disposable paper towels] **in accordance with (b) or (c) below, and wearing medical gloves.**

[1. A waterless hand agent may be used where]

(b) Required hand washing consists of a person:

- 1. Wetting the hands first with water;**
- 2. Applying soap in foam or liquid form to the hands;**
- 3. Rubbing the hands together vigorously for at least 15 seconds, covering all surfaces of the hands and fingers with soap;**
- 4. Rinsing the hands with water; and**
- 5. Using single-use paper towels to dry the hands and to turn off the faucet.**

(c) If hand washing sinks with running water are not readily available, hand washing shall be performed by use of alcohol-based hand-rub, provided hands are not visibly dirty or soiled with blood or body fluids, in which case hand washing pursuant to (b) above shall be performed first elsewhere, followed by use of alcohol-based hand rub upon the practitioner's return to the establishment premises.

[(c) The]

(d) An operator that provides a reusable soap dispenser for practitioner handwashing shall ensure that the dispenser is emptied and cleaned before being refilled.

(e) Operators shall ensure that practitioners [shall] wear [disposable] single-use medical [grade procedure] gloves on both hands [before proceeding with any ear piercing] at all times during the performance of ear-piercing procedures.

[(d) Under no circumstances shall a single pair of gloves be used on more than one person.

(e) Policies]

(f) Operators shall establish written policies and procedures [shall be established for management] addressing the needs of employees [or], piercers, and clients who have latex allergies, and shall supply alternatives to latex medical gloves and other latex-containing items to which employees, piercers, and clients who have latex allergies may be exposed in the establishment.

SUBCHAPTER 11. ENFORCEMENT

8:27-11.1 Scope

This subchapter applies to body art and ear-piercing establishments.

8:27-11.2 Inspection, inspection report, and plan of correction

(a) The **local** health authority **with jurisdiction** shall inspect every body art and ear-piercing establishment [as often as] **at least annually and upon receipt of an adverse reaction notification pursuant to N.J.A.C. 8:27-4.6.**

(b) The **State** health authority shall inspect each temporary body art establishment occurring in **State-operated facilities.**

(c) Each body art and ear piercing establishment is subject to applicable provisions of **Titles 24 and 26 of the Revised Statutes, including the right of a** health authority [deems necessary using an inspection report form approved by the Department of Health and Senior Services] **to have access to and inspect premises, and records and things located thereat.**

1. A representative of the health authority shall [provide] **present** proper identification **to an operator, or other person in charge at an establishment, upon commencing an inspection.**

[2. The]

(d) **An** operator shall [permit]:

1. **Permit a health authority to have full** access to [all parts of] the establishment; and

2. Make available for inspection and copying, upon request of the health authority, all [pertinent] records [required for the inspection shall be made available to the health authority representative for review] that this chapter requires the operator to maintain.

[3. An]

(e) A person who obstructs or interferes with a health authority in the performance of an inspection or other duty is subject to penalty pursuant to applicable provisions of Titles 24 and 26 of the Revised Statutes.

(f) Following an inspection, a health authority shall issue a written inspection report [shall identify, in a narrative form,] in which the health authority:

1. Identifies any [violations of] deficiencies in the operator's compliance with Titles 24 and 26 of the Revised Statutes, and/or this chapter [and shall be cross-referenced], citing to the section of the Title or chapter [being violated.

4. Results of the inspection shall be made available] with respect to which the operator is deficient;

2. Identifies deficiencies that the operator immediately must abate to avoid suspension or closure pursuant to N.J.A.C. 8:27-11.3; and

3. Specifies applicable fines and/or penalties for each cited deficiency pursuant to N.J.A.C. 8:27-11.4.

(g) Within 10 business days of an operator's receipt of a health authority's written inspection report that identifies deficiencies pursuant to subsection (d) above, the operator:

1. Shall submit to the health authority a written plan of correction in which the operator specifies the manner and the dates by which the operator will correct, and avoid in future, each cited deficiency; and

2. May submit to the health authority:

i. A request for reconsideration of a deficiency finding that the operator contends to be inconsistent with the facts or an applicable compliance standard, and

ii. Supplemental documents or materials in support of the operator's contention.

(h) Within 10 business days of its receipt of a plan of correction and/or request for reconsideration pursuant to subsection (f) above, a health authority shall review the plan and/or the request and:

1. Notify the operator in writing of:

i. The health authority's determination to accept and/or reject an operator's plan of correction in whole or in part;

ii. The reasons it rejects any parts of the plan of correction by explaining how a rejected proposed corrective measure would be inadequate to meet an applicable compliance standard; and

iii. The health authority's determination on an operator's request for reconsideration and any associated requirements to implement the determination;

2. Direct and authorize the operator to complete the accepted parts of the plan of correction and notify the health authority in writing as to the status of

completion of each corrective measure on or before the date the plan of correction specifies for completion of each measure; and

3. Direct the operator to submit a revised plan of correction as to any rejected parts of the submitted plan within 10 business days of the date of the notice of rejection.

(i) A health authority may conduct a repeat inspection to confirm the operator's acceptable performance of deficiency corrections.

(j) An operator is subject to additional or enhanced enforcement action pursuant to N.J.A.C. 8:27-11.3 if the operator fails to timely:

1. Pay assessed fines and/or penalties;

2. Submit a plan of correction;

3. Resubmit a plan of correction that is acceptable to the health authority if the health authority rejected the operator's initial plan of correction in whole or in part;

4. Report to the health authority as to the status of the operator's completion of each part of an accepted plan of correction;

5. Complete corrective measures in accordance with an accepted plan of correction; or

(k) A local health authority shall:

1. Submit a written report, using or containing at least the information listed in the form at Appendix A, of each adverse reaction notification it receives pursuant to N.J.A.C. 8:27-4.6 in the form or containing the information at

Appendix A, incorporated herein by reference, to the Department in January of each year; and

2. Report to the Department within the reporting periods and in accordance with the reporting procedures specified at N.J.A.C. 8:57 if a notification pursuant to N.J.A.C. 8:27-4.6 or an inspection indicates a suspected or a confirmed case of a reportable communicable disease or a communicable disease outbreak.

(l) The following are government records subject to public access and disclosure in accordance with N.J.S.A. 47:1A-1 et seq., and other applicable laws:

1. Final reports of annual inspections of body art and ear piercing establishments;

2. Reports of inspections of temporary establishments; and

3. Plans of correction.

(m) The following are not government records subject to public access and disclosure in accordance with N.J.S.A. 47:1A-1, et seq., and other applicable laws:

1. A report of an adverse reaction notification issued pursuant to N.J.A.C. 8:27-4.6;

2. Communicable disease reports; and

3. Records relating to an ongoing epidemiological outbreak investigation of a body art or ear piercing establishment.

8:27-11.3 Criteria for closure and permit or license suspension

(a) [The approval,] **A health authority immediately may close an establishment and/or suspend an operator's** license or permit [of any person] to operate a body art **or ear piercing** establishment [may be suspended at any time, when in the opinion of] **if** the health authority **finds that** such action is necessary to abate [a present] **an actual** or [threatened menace] **or imminent threat** to [the] public health.

(b) [The following shall be reason(s) for] **Following is a non-exclusive list of examples of conditions that pose an actual or imminent threat to public health and warrant a health authority's immediate closure of an establishment:**

1. Failure or lack of properly functioning equipment;

2. Failure of an operator to report malfunctioning or missing required equipment to the health authority pursuant to N.J.A.C. 8:27-5.4, except as provided in subparagraph (c), below;

[2.] **3.** Unsanitary or unsafe conditions [which may adversely impact the health of the public];

[3.] **4.** The health authority has reasonable cause to suspect that **an operator, a practitioner, or an apprentice is or may be transmitting** communicable disease [is, or may be, transmitted by an operator/ practitioner];

[4. The] **5. A** practitioner[(s) has demonstrated] **demonstrates** gross incompetence in performing body [piercing,] **art or ear piercing**[, tattooing, or [micropigmentation];

[5. The owner obtained] **6. An operator obtains**, or [attempted] **attempts** to obtain, a permit **or license** by means of fraud, misrepresentation, or concealment;

[6. The owner has been] **7. Subject to subparagraph i, below, an operator, a practitioner, or an apprentice is** convicted in this **State**, or any other state, of a crime directly related to the practice of [tattooing, micropigmentation,] body [piercing,] **art** or ear piercing;

[7. The owner or practitioner(s) has permitted]

i. This provision applies only to crime occurring subsequent to the health authority's issuance of a license or permit to operate, provided the operator fully disclosed to the health authority all prior crimes of the operator, practitioners, and/or apprentices of the establishment, the relevance of which the health authority considered in determining the applicant's fitness to receive the requested license or permit to operate and/or the appropriateness of the operator allowing the convicted practitioner or apprentice to perform services at the establishment;

8. An operator engages in or condones, and/or a practitioner or an apprentice engages in, illegal activity on the establishment premises;

9. An operator allows, or fails to prevent, the performance of, a genital piercing upon a person under 18 years of age at the establishment; [and

8. The]

10. An operator [has failed] allows, or fails to prevent, the performance of implants, branding, and/or cutting [to be performed in] at a body art establishment; and/or

11. A person who does not meet the training, experiential, and credentialing requirements of this chapter performs body art procedures in a body art establishment.

(c) [The following shall be cause for,] **Following is a non-exclusive list of examples of conditions and circumstances that pose an actual or imminent threat to public health and warrant at [a minimum,] least a seven-day suspension of an operator's license or permit:**

1.–2. (No change.)

3. Failure to notify the health authority within 24 hours of positive biological indicator test result of the autoclave; [or]

4. Using an ear-piercing instrument for any part of the body other than the ear lobes and trailing edge of the ear; **or**

5. An apprentice performs a body art procedure without direct supervision by the apprentice's supervising trainer or instructor.

(d) An operator's actual or purported lack of knowledge of a condition listed in (a) or (b) above shall not provide a basis of defense or objection to an action of a health authority to close, or suspend the operating authority of, an establishment.

(e) A local health authority shall submit a written report, using or containing at least the information listed in the form at Appendix A, [such infections/injuries] of notifications it receives pursuant to (a)3 above to the Department [of Health and Senior Services] in January of each year, and within the reporting periods and in accordance with the reporting procedures specified at N.J.A.C. 8:57 if a

notification indicates a suspected or a confirmed case of a reportable communicable disease or a communicable disease outbreak.

8:27-11.4 Penalties

Any person who [shall] violates any provision of this chapter **or an applicable provision of Subtitle 1 of Title 24, or Title 26, of the Revised Statutes**, or who [shall] **fails or refuses** to comply with a lawful order or directive of the health authority, shall be liable for penalties **and/or subject to injunctive action and other remedies** as provided by **applicable law, including but not limited to N.J.S.A. 24:2-2.1 et seq., 24:17-1 et seq., and 26:1A-10, 27**, and [all other applicable law and/or injunctive action as provided by law, or both] **28**.

8:27-11.5 Adulterated or misbranded device or cosmetic; detention and embargo

If a health authority finds, or has probable cause to believe, that a device or cosmetic, such as pigment, at an establishment is adulterated or misbranded within the meaning of Title 24 of the Revised Statutes (see particularly N.J.S.A. 24:5-1 et seq.), the health authority shall detain and/or embargo the device or cosmetic in accordance with N.J.S.A. 24:4-12.

APPENDIX A

(Body Art Infection/Injury Report)