

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 233. BODY PIERCING AND TATTOOING**

1. **DESCRIPTION:**
The proposed updates to OAC 310:233 Body Piercing and Tattooing includes removal of duplicated language, updating definitions, and the addition of a waiver and variance section to give increased flexibility to the Chapter.
2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**
The persons potentially affected by the rule changes will be the operators of the tattoo and body piercing establishments and the artists who work in those establishments.
3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**
It is anticipated that the revocation of sections and replacement with less complicated rule provisions will promote easier compliance with the rules, which will benefit operators and their customers.
4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**
There is no anticipated economic impact. There are no fee changes.
5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:**
There are no costs associated with implementation.
6. **IMPACT ON POLITICAL SUBDIVISIONS:**
There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.
7. **ADVERSE EFFECT ON SMALL BUSINESS:**
There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.
8. **EFFORTS TO MINIMIZE COSTS OF THE RULE:**
There are no less costly means currently identified.
9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**
There is no significant change in Public Health risk; however, simply stated rules and standards are expected to contribute to compliance with regulatory requirements..
10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**
There are no detrimental effects on public health or safety without adoption.
11. **PREPARATION AND MODIFICATION DATES:**
This rule impact statement was prepared on September 30, 2021.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 233. BODY PIERCING AND TATTOOING**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions

310:233-1-1. Purpose [AMENDED]

310:233-1-2. Definitions [AMENDED]

310:233-1-3. Prohibited acts [NEW]

Subchapter 3. Body Piercing Artist and Tattoo Artist ~~Requirements and Professional Standards~~

310:233-3-1. Records [REVOKED]

310:233-3-1.1. Hygienic Standards [NEW]

310:233-3-2. Prohibited acts [REVOKED]

310:233-3-2.1. Preparation and care of the body art area [NEW]

310:233-3-3. Standards [REVOKED]

310:233-3-3.1. Reusable equipment [NEW]

310:233-3-4. Exemptions [REVOKED]

310:233-3-4.1. Single use items [NEW]

310:233-3-5. Public notification requirements [REVOKED]

310:233-3-5.1. Client identification [NEW]

310:233-3-6. Client records [REVOKED]

310:233-3-6.1. Consent form [NEW]

310:233-3-7. Preparation and care of the body art area [REVOKED]

310:233-3-7.1. Aftercare instructions [NEW]

310:233-3-8. Records retention [NEW]

Subchapter 5. Sanitation and Sterilization Procedures

310:233-5-1. Reusable equipment [REVOKED]

310:233-5-2. Single use items [REVOKED]

Subchapter 7. Requirements for Premises

310:233-7-1. Physical construction and maintenance [REVOKED]

310:233-7-1.1. Establishment physical construction [NEW]

310:233-7-2. Location requirements and limitations [REVOKED]

310:233-7-2.1. Procedure areas [NEW]

310:233-7-3. Decontamination room [NEW]

310:233-7-4. Waste Disposal [NEW]

Subchapter 9. License Requirements

310:233-9-1. Body piercing or tattoo license [REVOKED]

310:233-9-1.1 Artist and establishment license [NEW]

310:233-9-2. Artist license [REVOKED]

310:233-9-2.1. Event and establishment license application [NEW]

310:233-9-3. Prohibitions [REVOKED]

310:233-9-3.1. Event license [NEW]

310:233-9-4.1. Individual license and certificate applications [NEW]

310:233-9-5. Apprentice sponsor [REVOKED]

310:233-9-5.1. License and certificate fees [NEW]

310:233-9-6. Apprentice program [REVOKED]

310:233-9-6.1. Student curriculum [NEW]

310:233-9-7. Apprentice [REVOKED]

310:233-9-7.1. Suspension or withdrawal of sponsor certificate

310:233-9-8. License application and review process [REVOKED]

Subchapter 11. Enforcement

310:233-11-1. General requirements [REVOKED]

310:233-11-1.1. Waivers [NEW]

310:233-11-2. Investigation, filing of actions and hearing procedures [REVOKED]

310:233-11-2.1. Time frame for correction [NEW]

310:233-11-3. Suspension or revocation of licenses [REVOKED]

310:233-11-3.1. Investigation and enforcement [NEW]

310:233-11-4. Suspension or withdrawal of apprentice sponsor [REVOKED]

SUMMARY:

Subchapter 1: 310:233-1-1 The current rule cites the purpose and source law. The proposed rule reduces redundant language.

310:233-1-2 The current rule defines terms used in the chapter. The proposed rule reduces redundant language and clarifies and adds definitions.

310:233-1-3 There is no current rule. The proposed rule lists out all prohibited acts in the current chapter.

Subchapter 3: The current rule sets professional standards. The proposed rule reduces redundant language.

310:233-3-1 The current rule describes the information required to be retained at the establishment. The current rule has been revoked.

310:233-3-1.1 There is no current rule. The proposed rule describes the hygienic standards of the artist.

310:233-3-2 The current rule describes prohibited acts. The current rule has been revoked.

310:233-3-2.1 There is no current rule. The proposed rule describes the preparation of the body art area.

310:233-3-3 The current rule describes the hygienic standards of the artist. The current rule has been revoked.

310:233-3-3.1 There is no current rule. The proposed rule describes how to clean and sterilize reusable instruments.

310:233-3-4 The current rule exempts the piercing of the ear lobe. The current rule has been revoked.

310:233-3-4.1. There is no current rule. The proposed rule describes how single use items are to be used.

310:233-3-5. The current rule describes the public notification requirements. The current rule has been revoked.

310:233-3-5.1. There is no current rule. The proposed rule describes the identification requirements.

310:233-3-6. The current rule describes what information the artist must document to perform a procedure. The current rule has been revoked.

310:233-3-6.1. There is no current rule. The proposed rule describes what information the artist must document to perform a procedure.

310:233-3-7. The current rule describes the preparation of the body art area. The current rule has been revoked.

310:233-3-7.1. There is no current rule. The proposed rule describes what information is required on after care instructions.

310:233-3-8. There is no current rule. The proposed rule describes record retention limits.

Subchapter 5: The current rule describes sanitation and sterilization procedures. The current rule has been revoked.

310:233-5-1. The current rule describes how to clean and sterilize reusable instruments. The current rule has been revoked.

310:233-5-2. The current rule describes how single use items are to be used. The current rule has been revoked.

Subchapter 7: 310:233-7-1. The current rule describes the physical construction of an establishment. The current rule has been revoked.

310:233-7-1.1. There is no current rule. The proposed rule describes the physical construction of an establishment.

310:233-7-2. The current rule prohibits a mobile establishment. The current rule has been revoked.

310:233-7-2.1. There is no current rule. The proposed rule describes the procedure area.

310:233-7-3. There is no current rule. The proposed rule describes the decontamination room.

310:233-7-4. There is no current rule. The proposed rule describes proper waste disposal.

Subchapter 9: 310:233-9-1. The current rule describes the requirements and cost of establishment license. The current rule has been revoked.

310:233-9-1.1. There is no current rule. The proposed rule describes the requirements and limitations for obtaining a license.

310:233-9-2. The current rule describes the requirements and cost for an artist license. The current rule has been revoked.

310:233-9-2.1. There is no current rule. The proposed rule describes the information needed to apply for and be issued an establishment or event license.

310:233-9-3. The current rule describes prohibitions to holding a license. The current rule has been revoked.

310:233-9-3.1. There is no current rule. The proposed rule describes the requirements and standards for events.

310:233-9-4.1. There is no current rule. The proposed rule describes the requirements for all artist licenses and certificates.

310:233-9-5. The current rule describes the requirements to be a sponsor. The current rule has been revoked.

310:233-9-5.1. There is no current rule. The proposed rule details the license and renewal fees for artist and establishment licenses.

310:233-9-6. The current rule describes the requirements of the apprentice program. The current rule has been revoked.

310:233-9-6.1. There is no current rule. The proposed rule describes the student curriculum requirements.

310:233-9-7. The current rule describes the requirements for an apprentice. The current rule has been revoked.

310:233-9-7.1. There is no current rule. The proposed rule describes how a sponsor certificate may be suspended.

310:233-9-8. The current rule tells applicant to submit document as required by another section. The current rule has been revoked.

Subchapter 11: 310:233-11-1. The current rule describes the investigation and enforcement process. The current rule has been revoked.

310:233-11-1.1. There is no current rule. The proposed rule provides a method for variances and waivers to be granted on a case-by-case basis.

310:233-11-2. The current rule describes the investigation and enforcement process. The current rule has been revoked.

310:233-11-2.1. There is no current rule. The proposed rule sets a timeframe for the correction of violations.

310:233-11-3. The current rule describes how a license may be suspended or revoked. The current rule has been revoked.

310:233-11-3.1. There is no current rule. The proposed rule describes the investigation and enforcement process.

310:233-11-4. The current rule describes how a sponsor certificate may be suspended. The current rule has been revoked.

AUTHORITY:

Commissioner of Health, Title 63 O.S. § 1-104; Title 21 O.S. Section 842.1 et seq.

COMMENT PERIOD:

November 15, 2021 through the close of the Department's normal business hours, 5 PM, on December 15, 2021. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on December 15, 2021, submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on December 15, 2021 at the Oklahoma State Department of Health Auditorium, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 from 9:30 AM to 12:30 PM. The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of an office closure due to inclement weather is January 7, 2022 in the Auditorium, from 9:30 AM to 12:30 PM. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice. Validated parking will be provided for the parking lot located at the east corner of Broadway and Robert S. Kerr Avenue, subject to availability.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through the close of the Department's normal business hours, 5 PM, on December 15, 2021, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail AudreyT@health.ok.gov.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 233. BODY PIERCING AND TATTOOING**

SUBCHAPTER 1. GENERAL PROVISIONS

310:233-1-1. Purpose

This Chapter is to be used by operators of body piercing and tattooing establishments, by artists and apprentices. The rules are to implement ~~implements~~ the provisions of 21 O.S. ~~Section Sections~~ 842.1 et seq, 842.2 and 842.3. Nothing in OAC 310:233 shall be construed to require an artist to perform a body piercing or tattoo procedure upon a client.

310:233-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Aftercare" means written instructions given to the client, specific to the body piercing or tattooing procedure(s) rendered, on caring for the body piercing or tattoo and surrounding area.

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

"Apprentice" means any person who is training under the supervision of a licensed tattoo artist. That person cannot independently perform the work of tattooing. Apprentice also means any person who is training under the supervision of a licensed body piercing artist. That person cannot independently perform the work of body piercing [21:842.1(C)(6)(D)(6)].

"Apprentice program" means an approved body piercing or tattooing training program conducted by an approved apprentice sponsor.

"Apprentice sponsor" means an individual approved by the Department to ~~conduct~~ sponsor a body piercing or tattooing apprentice program.

"Artist" means the person who actually performs the body piercing or tattooing procedure ~~[21:842.1.B]~~ [21:842.1(D)(5)].

"Aseptic technique" means a hygienic practice which prevents and hinders the direct transfer of microorganisms, regardless of pathogenicity, from one person or place to another person or place.

"Autoclave" means a piece of medical equipment that employs the steam under pressure method of sterilization.

"Bloodborne pathogen certification" means a training program that shall contain a general explanation of epidemiology and symptoms of bloodborne diseases.

"Body piercing" means a procedure in which an opening is created in a human body solely for the purpose of inserting jewelry or other decoration; provided, however, the term does not include ear piercing ~~[21:842.1.B]~~ 21:842.1(D)(1).

"Body piercing operator" means any person who owns, controls, operates, conducts, or manages any permanent body piercing establishment, whether actually performing the work of body piercing or not [21:842.1(C)(3)].

"Church" means an establishment, other than a private dwelling, where religious services are usually conducted [21:842.3(C)(3)(b)].

"Client" means a person requesting the application of a body piercing or tattoo.

"Contaminated waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030, known as "Occupational Exposure to Bloodborne Pathogens".

"CPR Certification" means Cardiopulmonary Resuscitation and shall include instruction for the basic adult CPR training.

"Department" means the Oklahoma State Department of Health.

"Disinfection" means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling; a process of reducing the number of microorganisms on cleaned procedure surfaces and equipment to a safe level with germicidal solution as has been approved by the Department.

~~**"Ear piercing"** means puncturing the lobe of the ear not to include cartilage.~~

"Ear piercing gun" means a device that pierces an individual's ear lobe using a single-use stud and clasp ear piercing system.

"Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with body piercing and tattooing procedures.

"First aid certification" means a training program that includes instruction in injury and acute illness.

"Germicidal solution" means a cleansing agent that kills disease-causing microorganisms on hard surfaces and is a disinfectant or sanitizer registered with the Environmental Protection Agency.

"Germicidal soap" means an agent designed for use on the skin that kills disease-causing microorganisms.

"Handwashing facility" means a sink equipped with hot and cold or tempered running water under pressure, used for washing hands, arms or other portions of the body.

~~**"HBV"** means Hepatitis B virus and is a DNA virus that attacks the liver causing serious disease.~~

~~**"HCV"** means Hepatitis C virus and is a RNA virus found in the blood of persons who have the disease which attacks the liver causing serious disease.~~

~~**"HIV"** means human immunodeficiency virus.~~

~~**"Hot water"** means water that attains at least 100°F and maintains a temperature as specified in OAC 158:30.~~

~~**"Instruments used for body piercing"** means disposable or reusable instruments that may contact a client's body or body fluids during body piercing procedures.~~

~~**"Instruments used for tattooing"** means disposable or reusable instruments that may contact a client's body or body fluids during tattooing procedures.~~

"Integrator strips" means strips or devices used in pouches or autoclave chambers that prove the condition of sterilization has been met.

"Jewelry" means any personal ornament inserted into a newly pierced area.

"License" means written approval by the Department for an artist to perform body piercing or tattooing or written approval by the Department to operate a body piercing or tattoo establishment.

"Operator" means:

(A) body piercing operator, which is any person who owns, controls, operates, conducts, or manages any permanent body piercing establishment, whether actually performing the work of body piercing or not. A mobile unit, including, but not limited to, a mobile home, recreational vehicle, or any other nonpermanent facility, shall not be used as a permanent body piercing establishment [21 O.S. § 84201(D)(3)]; or

(B) tattoo operator, which is any person who owns, controls, operates, conducts, or manages any permanent tattooing establishment whether performing the work of tattooing or not, or a temporary location that is a fixed location at which an individual tattoo operator performs tattooing for a specified period of not more than seven (7) days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing [21 O.S. § 84201(D)(4)].

~~**"Playground"** means a place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation [21:842.3(C)(3)(C)].~~

"Procedure surface" means any part of furniture or fixtures designed to contact the client's body during a body piercing or tattooing procedure or any surface where instruments and equipment have come into contact with the client during the procedure.

"Regulatory authority" means a representative, such as an onsite inspector, of the Department.

"Release form" means a release of liability that shall be completed by the client previous to receiving a body piercing or tattoo procedure.

"School" means an establishment, other than a private dwelling, where the usual processes of education are usually conducted [21:842.3(C)(3)(a)].

"Sharps" means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized single use piercing or tattooing needles and razor blades.

"Sharps container" means a puncture-resistant, leak-proof container that is labeled or color coded that can be closed for disposal.

"Single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing and tattooing needles and protective gloves.

"Skills challenge" means a testing mechanism that enables persons who have received training in tattooing and have experience in performing tattooing procedures to challenge the training requirements by satisfactorily completing the written examination.

"Spore test" means a biological monitoring process in which a third party laboratory culturing service is engaged to monitor spore growth on media processed in an autoclave.

"Statim autoclave" means a brand of autoclave utilizing the steam flush pressure pulse method of sterilization.

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

"Student" means an individual approved for the curriculum portion of the training program and cannot perform tattoo or body piercing procedures on a human.

"Tattooing" means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment; provided that medical micropigmentation, performed pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act, shall not be construed to be tattooing [21:842.1(C)(2)].

"Tattoo operator" means any person who owns, controls, operates, conducts or manages any permanent tattooing establishment whether performing the work of tattooing or not [21:842.1(C)(4)].

"Temporary artist license" means a person that is not licensed through the State of Oklahoma that is a body piercing artist or tattoo artist doing temporary work at a licensed body piercing or tattoo establishment not to exceed 30 days.

"Ultrasonic cleaning unit" means a piece of medical equipment utilizing ultrasound energy to thoroughly clean instruments for body piercing or tattooing.

"Universal precautions" means an approach to infection control that treats all human blood and certain human body fluids as if known to be infectious for Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV), Hepatitis C Virus (HCV), and other bloodborne pathogens.

310:233-1-3. Prohibited acts

(a) In addition to the prohibited acts stated in 21 O.S. §§ 842.1, 842.2, and 843.3, an artist can only use an ear-piercing gun on the portion of the earlobe that does not contain any cartilage.

(b) The following is prohibited within a tattoo or body piercing establishment:

(1) Eating or drinking within the procedure area;

(2) Smoking or vaping any substance; and

(3) Animals, except for:

(A) fish in a fish tank; and

(B) service animals assisting an individual with a disability, as defined in 28 CFR § 36.104.

(c) A person with an exposed infectious sore is prohibited from working in any area of the establishment where there is a likelihood that the person could contaminate instruments, supplies, or procedure surface with body substances or pathogenic organism.

SUBCHAPTER 3. BODY PIERCING ARTIST AND TATTOO ARTIST REQUIREMENTS -AND PROFESSIONAL STANDARDS

310:233-3-1. Records [REVOKED]

~~The following information shall be kept on file on the premises of a body piercing or tattooing establishment and shall be available for inspection by the Department.~~

~~(1) Artist information shall include:~~

- ~~(A) Full name and exact duties of each artist;~~
- ~~(B) Date of birth of each artist; and~~
- ~~(C) Identification photo of each artist.~~

~~(2) Body piercing or tattoo establishment information shall include:~~

- ~~(A) Body piercing or tattoo establishment name;~~
- ~~(B) Hours of operation;~~
- ~~(C) Owner's name and address;~~
- ~~(D) Operator's name and address (if different from the owner);~~
- ~~(E) A complete definition of all body piercing procedures performed;~~
- ~~(F) An inventory of all instruments and supplies, including body jewelry, sharps used for any and all body piercing or tattooing procedures, including names of manufacturers and serial or lot numbers, if applicable, which may be satisfied by retaining invoices or orders; and~~
- ~~(G) Proof that all artists have either started or completed or were offered and declined, in writing, using the form provided by the Department, the Hepatitis B vaccination series.~~

310:233-3-1.1. Hygienic Standards.

(a) General. An artist must comply with all hygienic practices and procedures described in this section.

(b) Personal Hygiene. When performing procedures an artist maintains a high degree of personal cleanliness, wears clean clothes, and closed-toe shoes.

(c) Washing and Drying Hands. To properly wash and dry hands, an artist will:

- (1) thoroughly wash his/her hands in warm running water that is at least 100 °F with germicidal soap;
- (2) rinse his/her hands in warm running water that is at least 100 °F; and
- (3) dry with disposable paper towels.

(d) When to Wash and Dry Hands. An artist will wash and dry his/her hands as described in (c) of this Section:

- (1) immediately before donning gloves to perform a procedure;
- (2) immediately after removing gloves at the conclusion of a procedure;
- (3) when leaving the work area;
- (4) as soon as feasibly possible after potential contact with a contaminated surface; and
- (5) after eating, drinking, vaping, or smoking.

(e) Disposable Gloves. An artist wears disposable exam gloves to minimize the possibility of transmitting infection to the client. Exam gloves are put on and removed in accordance with aseptic technique.

- (1) At least one new pair of exam gloves is used for each of the following stages:
 - (A) Hard surface disinfection;
 - (B) Setup of instruments;
 - (C) Preparation of the body art area; and
 - (D) The procedure.

(2) If the glove is pierced or torn while performing a procedure, then the contaminated gloves are discarded immediately, and the artist's hands are washed and dried as described in (c) of this Section before a fresh pair of gloves are applied.

(f) Item or Instrument Contamination. Any item or instrument that has come into contact with a surface other than the procedure surface or the client during the procedure is discarded and replaced immediately with a new disposable item or a new sterilized instrument.

(g) Disinfect Surface Area. All procedure surfaced are disinfected with a germicidal solution immediately after completing a procedure.

310:233-3-2. Prohibited acts [REVOKED]

~~(a) It shall be unlawful for any artist to perform body piercing or tattoo procedures outside of a licensed body piercing or tattooing establishment.~~

~~(b) Eating or drinking by anyone is prohibited in the area where body piercing or tattooing is performed by the licensed artist in a licensed body piercing or tattoo establishment. Smoking is prohibited in any licensed establishment.~~

~~(c) No person under eighteen (18) years of age shall be allowed to receive a tattoo. No person under eighteen (18) years of age shall be allowed to receive a body piercing procedure unless the legal parent or legal guardian of such a child gives written consent for the procedure and the legal parent or legal guardian of the child is present during the procedure [21:842.1(A)].~~

~~(d) No person with an exposed infectious sore shall work in any area of a body piercing or tattoo establishment where there is a likelihood that they could contaminate body piercing or tattoo instruments, supplies or procedure surfaces with body substances or pathogenic organisms.~~

~~(e) No animals of any kind shall be allowed in a body piercing or tattoo establishment except service animals used by persons with disabilities or as allowed in 310:233-7-1.~~

~~(f) A person shall not perform body piercing or tattoo upon another person if the other person is under the influence of alcohol or a controlled substance.~~

~~(g) An ear piercing gun shall not be used on any body part other than the ear lobe, which does not contain cartilage. This device must be autoclave sterilized between clients after each use or be single use and disposable.~~

~~(h) No person shall be allowed to purchase or possess tattoo equipment or supplies without being licensed either as an Oklahoma Medical Micropigmentologist or as an Oklahoma tattoo artist [21:842.1(A)].~~

~~(i) All body piercing operators, tattoo operators and artists shall be prohibited from performing body piercing or tattooing unless licensed in the appropriate category by the Department [21:842.3(A)].~~

310:233-3-2.1. Preparation and care of the body art area

(a) Before a procedure is performed, the immediate and surrounding area of the skin shall be prepared with an approved antiseptic skin preparation.

(b) Oral piercing shall be prepared with an oral antiseptic mouth rinse.

(c) If shaving is necessary, single use disposable razors shall be used and discarded into a sharps container.

(d) Any utensil used for marking the skin shall be single use and disposed of after the procedure.

(e) Any skin or mucosa surface being prepared for a procedure shall be free of rashes or any visible signs of infection.

(f) Any jewelry inserted into a fresh piercing shall be:

(1) Autoclave sterilized while fully disassembled; and

(2) Inspected and found free of nicks, scratches or irregular surfaces before insertion into a fresh body piercing.

(g) Jewelry shall be made of:

(1) 316L or 316LVM stainless steel;

(2) Solid 14k or 18k yellow or white nickel-free gold;

(3) Niobium;

(4) Titanium or platinum;

(5) Poly Tetra Flouro Ethylene (PTFE); or

(6) Tygon.

310:233-3-3. Standards [REVOKED]

~~(a) The artist shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes, including closed-toed shoes, when performing body piercing or tattoo procedures. Before performing body piercing or tattoo procedures, the artist must thoroughly wash their hands in hot running water (with a minimum temperature of 100° F) with germicidal soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants. At a minimum this includes:~~

- ~~(1) Immediately prior to donning gloves to perform a body piercing or tattoo procedure;~~
- ~~(2) Immediately after removing gloves at the conclusion of a body piercing procedure or tattoo procedure;~~
- ~~(3) When leaving the work area;~~
- ~~(4) As soon as feasibly possible after potential contact with contaminated surface(s) has occurred;~~
- ~~and~~
- ~~(5) Before and after eating, drinking or smoking.~~

~~(b) In performing body piercing or tattoo procedures, the artist shall wear disposable exam gloves to minimize the possibility of transmitting infection to the client being pierced or tattooed. Exam gloves must be changed in accordance with aseptic technique. Under no circumstances shall a single pair of exam gloves be used during the entire piercing or tattoo procedure. The use of disposable exam gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program. A minimum of one pair of exam gloves should be used for each stage of piercing or tattooing to include:~~

- ~~(1) Hard surface disinfection;~~
- ~~(2) Setup of instruments used for body piercing or tattooing;~~
- ~~(3) Preparation of the body art area; and~~
- ~~(4) The body piercing or tattoo procedure.~~

~~(c) If, while performing a body piercing or tattoo procedure, the artist's glove is pierced or torn, the contaminated gloves shall be discarded immediately and the hands washed thoroughly before a fresh pair of exam gloves are applied. Any item or instrument that has come into contact with a surface other than the procedure surface or the client during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument before the procedure resumes.~~

~~(d) All procedure surfaces must be disinfected with a germicidal solution immediately after completing a body piercing or tattoo procedure.~~

~~(e) Contaminated waste which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled shall be placed in a biohazard bag or container which is properly labeled. Sharps ready for disposal shall be placed in an approved sharps container. Contaminated waste which may release blood, body fluids, dried blood or dried body fluids and sharps must be disposed of consistent with OAC 252:515. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal disposal methods.~~

310:233-3-3.1. Reusable equipment

(a) General. After each use, non-disposable instruments and reusable equipment must comply with the cleaning and sterilizing processes and procedures stated in this Section.

(b) Pre-clean. To remove residue an instrument is pre-cleaned either manually or mechanically.

(1) Manual scrubbing is performed in accordance with CDC guidelines, with items full submerged under water. While manually scrubbing, the person will wear appropriate personal protective equipment including:

- (A) full length sleeves;
- (B) elbow-high gloves;
- (C) apron; and

(D) face mask with eye protection.

(2) Mechanical cleaning consists of following the instructions provided with the device.

(c) Enzyme Cleaner in Ultrasonic Devise. After precleaning and rinsing the instruments, they are then placed in an ultrasonic cleaning unit and submerged in a protein-dissolving enzyme cleaner or detergent per the manufacturer's instructions.

(d) Packaging. After the instruments have been placed in an ultrasonic cleaner, all packaged, non-disposable instrument are instruments are dried and packed individually in sterilized pouches. These sterilized pouches contain either an indicator or integrator strip. Additionally, the expiration date stated on the pouch cannot exceed 6 months from when the instrument was packed into the sterilized pouch.

(e) Autoclave. All packaged, non-disposable instruments are sterilized in a steam autoclave. The autoclave is used, cleaned, and maintained according to the manufacturer's instructions. A copy of the manufacturer's recommended procedures for the autoclave is kept on site and available for inspection.

(g) Storing. After properly packaged, instruments are immediately stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instrument. All instruments remain properly stored in their sterile pouches until just before performing a procedure. Sterile equipment can only be handled with clean gloves and cannot be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

(h) Statim Autoclave Option.

(1) For establishments utilizing a Statim autoclave, an operator will need to take monthly spore tests that are verified through an independent laboratory to confirm that the Statim autoclave is capable of attaining sterilization.

(2) The reusable items are sterilized in a bulk load without sterilization pouches, just before the procedure.

(3) Items are used immediately after opening the Statim autoclave cassette.

(4) The items contained in the cassette are used for one client only and include the use of an integrator strip.

(i) Assembling. When assembling instruments, the artist will wear disposable exam gloves and use aseptic techniques to ensure that the instruments and gloves are not contaminated.

310:233-3-4. Exemptions

~~Individuals who pierce only the lobe of the ear as defined herein are exempt from OAC 310:233.~~

310:233-3-4.1. Single use items

Single use items cannot be used on more than one client for any reason. After use, all needles, razors and other sharps shall be immediately disposed of in an approved sharps container.

310:233-3-5. Public notification requirements [REVOKED]

~~(a) Before starting the procedure, the operator or artist, shall provide verbal and written aftercare instructions for the body piercing or tattoo procedure to each client. These instructions shall include information about when to seek medical treatment, if necessary. The written aftercare instructions shall advise the client to consult a physician at the first sign of infection and contain the name, address and telephone number of the body piercing or tattoo establishment. In addition, all body piercing or tattoo establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the clients of the risks and possible consequences of body piercing or tattoo procedures. The Disclosure Statement and the Notice for Filing a Complaint shall be included in the body piercing or tattoo establishment Application Packet.~~

~~(b) The disclosure statement requires the following:~~

~~(1) Clients should be aware that the establishment complies with the all rules of sanitation and sterilization;~~

~~(2) The client can still have possible transmission of a bloodborne disease or infection contracted as a result of a body piercing or tattoo;~~

- (3) A signature of the client is required with understanding of the Disclosure Statement and acknowledges the possible effects or consequences; and
- (4) Filing a complaint gives the Department knowledge that a body piercing or tattoo establishment or artist may be in violation of 310:233.

310:233-3-5.1. Client identification

- (a) Acceptable forms of government issued identification shall include the client's name, picture, and date of birth.
- (b) To pierce a minor, the identification in (a) of this section is required from the legal parent or legal guardian. Identification for the minor shall include an original birth certificate, or court documentation verifying legal guardianship.

310:233-3-6. Client records [REVOKED]

(a) In order for the artist to properly evaluate the client's medical condition previous to receiving a body piercing or tattoo procedure and not violate the client's rights or confidential medical information, the following information shall be included in the release form:

(1) To ensure proper healing of your body piercing or tattoo procedure, we ask that you disclose if you have or have had any of the following conditions:

- (A) Diabetes;
- (B) History of hemophilia or excessive bleeding;
- (C) History of skin disease, skin lesions or skin sensitivities to soaps or disinfectants;
- (D) History of allergies, adverse reactions or other skin sensitivities as they pertain to body piercing or tattooing procedures;
- (E) History of epilepsy, seizures, fainting or narcolepsy;
- (F) Taking medications such as anticoagulants, which interfere with blood clotting;
- (G) Last time you ate;
- (H) Pertinent medical history or medical condition that might affect the healing process; and
- (I) Pregnant and/or nursing.

(b) The operator or artist shall ask the client to sign a release form confirming that the above information was obtained or attempted to be obtained.

(c) Each operator shall keep records consisting of:

- (1) Release forms of all body piercing or tattoo procedures administered;
- (2) Photocopy of client's identification;
- (3) Name, date of birth, address of the client;
- (4) Signature of the client or consent form (if the client is less than 18 years of age for a body piercing procedure);
- (5) Date of the procedure;
- (6) Identification and location of the body piercing or tattoo procedure(s) performed; and
- (7) The artist's name and license number.

(d) All client records shall be confidential, and they shall be made available to the Department upon request. After being retained for three (3) years, records shall be destroyed by shredding or appropriate destruction methods.

(e) Acceptable forms of photo identification shall include: driver's license, passport, and state or government issued identification that includes the client's name, picture and date of birth. If a date of birth is not included on the form of identification an original birth certificate must be presented to and copied by the artist or operator.

(f) To pierce a minor, the above identification in 310:233-3-6(d) shall be required from the legal parent or legal guardian and the minor. Identification shall include an original birth certificate of the minor. Court documentation verifying legal guardianship shall be provided by the guardian to the artist.

310:233-3-6.1. Consent form

(a) A client must sign a consent form before receiving a body piercing or tattoo. The consent form summarizes the procedure information. It shall include:

- (1) The name, and address of the establishment;
- (2) The name, date of birth, and address of the client;
- (3) The date of the procedure;
- (4) Identification and location of procedure(s) performed;
- (5) The artist's name and license number;
- (6) The signature of the artist; and
- (7) The signature of the client or guardian.
- (8) A photocopy of the client's government issued photo identification, or
- (9) A photocopy of the guardian's government issued photo identification if the client is a minor.

(b) In order for the artist to properly evaluate the client's condition prior to a procedure, the following questions shall be asked of the client in the consent form:

- (1) Does the client have a history of:
 - (A) Diabetes;
 - (B) Hemophilia or excessive bleeding;
 - (C) Skin disease, skin lesions or skin sensitivities to soaps or disinfectants;
 - (D) Allergies, adverse reactions or other skin sensitivities; or
 - (E) Epilepsy, seizures, fainting or narcolepsy.
- (2) If the client is:
 - (A) Taking medications such as anticoagulant;
 - (B) Pregnant and/or nursing; and
 - (C) When the client last ate.
- (3) Other pertinent medical history or condition that might affect the healing process.

310:233-3-7. Preparation and care of the body art area [REVOKED]

~~(a) Before a body piercing or tattoo procedure is performed, the immediate and surrounding area of the skin where the body piercing or tattoo procedure is to be performed shall be prepared with an approved antiseptic skin preparation, depending on the type of body art to be performed. Oral piercing shall be prepared with an oral antiseptic mouth rinse. If shaving is necessary, single use disposable razors shall be used and discarded into a sharps container after each use.~~

~~(b) Any utensil used for marking the skin where the body piercing or tattoo procedure is to be performed shall be single use and disposable.~~

~~(c) Any skin or mucosa surface being prepared for a body piercing or tattoo procedure shall be free of rashes or any visible signs of infection.~~

~~(d) Any jewelry inserted into a fresh body piercing shall be autoclave sterilized while fully disassembled to allow for sterilization of the entire piece of jewelry. The jewelry must be checked by the artist and free of nicks, scratches or irregular surfaces before insertion into a fresh body piercing. All removable parts shall be removed from threaded jewelry for sterilization.~~

~~(e) Jewelry shall be made of 316L or 316LVM stainless steel, solid 14k or 18k yellow or white nickel-free gold, niobium, titanium or platinum, Poly Tetra Fluoro Ethylene (PTFE) or Tygon.~~

310:233-3-7.1. Aftercare instructions

Before starting the procedure, the operator or artist, shall provide verbal and written aftercare instructions regarding the procedure to include:

- (1) The name, address, and telephone number of the establishment;
- (2) The artist name;
- (3) That it is still possible to have transmission of a bloodborne disease or infection as a result of a body piercing or tattoo;
- (4) To consult a physician at the first sign of infection;
- (5) That the establishment complies with this Chapter;

- (6) That complaints may be filed with the department; and
- (7) Caring for the body piercing or tattoo and surrounding area.

310:233-3-8. Records retention

The following information shall be kept on file on the premises of a body-piercing or tattooing establishment and shall be available for inspection by the regulatory authority:

- (1) A complete definition of all body piercing procedures performed;
- (2) An inventory of all instruments and supplies, including body jewelry, sharps used for any and all body piercing or tattooing procedures, including names of manufacturers and serial or lot numbers, if applicable, which may be satisfied by retaining invoices or orders;
- (3) Autoclave testing records as described in OAC 233 3-3.1.
- (4) Signed consent forms for all body piercing or tattoo procedures administered;
- (5) Client records of procedures performed shall be
 - (A) Confidential;
 - (B) Made available to the regulatory authority upon request;
 - (C) Retained for three (3) years; and
 - (D) Destroyed by shredding or other appropriate destruction methods after three (3) years.

SUBCHAPTER 5. SANITATION AND STERILIZATION PROCEDURES [REVOKED]

310:233-5-1. Reusable equipment [REVOKED]

~~(a) After each use, non disposable instruments or reusable equipment used for body piercing or tattooing procedures shall be processed through all of the following steps of the sterilization process:~~

- ~~(1) Manually or mechanically preclean the instruments with care taken to ensure removal of residue. Manual scrubbing shall be done per Centers for Disease Control and Prevention (CDC) guidelines, fully submerged under water, to reduce the likelihood of making bloodborne pathogens airborne. This must be done while wearing appropriate personal protective equipment including but not limited to full length sleeves, elbow high gloves, apron, and face mask with eye protection;~~
- ~~(2) Thoroughly rinse the instruments after precleaning and soak them in a protein dissolving enzyme cleaner or detergent per manufacturer's instructions; and~~
- ~~(3) Rinse the instruments after soaking and clean the instruments further in an ultrasonic cleaning unit fully submerged in an enzymatic cleaner, per manufacturer's instructions.~~

~~(b) After cleaning, all non disposable instruments used for body piercing or tattooing procedures shall be rinsed thoroughly, dried and packed individually in sterilization pouches and subsequently sterilized. All sterilization pouches containing non disposable instruments shall contain either an indicator or an integrator strip. Sterilization pouches shall be dated with an expiration date not to exceed six (6) months.~~

~~(c) All packaged, non disposable instruments used for body piercing or tattooing shall be sterilized in a steam autoclave. The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of their autoclave sterilization unit shall be available for inspection by the Department. Sterile equipment shall only be handled with clean gloves and shall not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.~~

~~(d) Each operator of a body piercing or tattooing establishment shall demonstrate that the autoclave(s) used is capable of attaining sterilization by monthly spore tests. These tests shall be verified through an independent laboratory. These spore test records shall be retained by the operator for a minimum of three (3) years and made available to the Department upon request.~~

~~(e) After sterilization, the instruments used for body piercing or tattooing shall be immediately transported with clean exam gloves and stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instruments.~~

~~(f) All instruments used for body piercing or tattooing shall remain properly stored in their sterile pouches until just before performing a body piercing or tattooing procedure. When assembling~~

instruments used for performing body piercing or tattooing procedures, the artist shall wear disposable exam gloves and use aseptic techniques to ensure that the instruments and gloves are not contaminated.

~~(g) All needles, instruments and equipment shall be specifically manufactured for performing body piercing and tattooing procedures.~~

~~(h) For body piercing and tattooing establishments primarily utilizing a Statim autoclave, reusable items shall be sterilized in an autoclave in a bulk load without sterilization pouches, previous to sterilization in the Statim autoclave, for the body piercing or tattoo procedure. Reusable instruments and single use items sterilized in a Statim autoclave cassette must be used immediately after opening the Statim autoclave cassette. The items contained in the Statim autoclave cassette shall be used for one client only and shall include use of an integrater strip.~~

310:233-5-2. Single use items [REVOKED]

~~Single use items shall not be used on more than one client for any reason. Each needle shall be used for one body piercing or tattoo procedure only. After use, all needles, razors and other sharps shall be immediately disposed of in an approved sharps container.~~

SUBCHAPTER 7. REQUIREMENTS FOR PREMISES

310:233-7-1. Physical construction and maintenance [REVOKED]

~~(a) All walls, floors, and procedure surfaces of a body piercing or tattoo establishment shall be smooth, free of open holes or cracks, washable, in good repair, and clean. All procedure surfaces, including client chairs/benches shall be of such construction as to be easily cleaned and disinfected after each client. All body piercing or tattoo establishments shall be completely separated by solid walls extending from floor to ceiling, from any room used for human habitation, retail sales not associated with body piercing or tattooing, or other such activity which may cause potential contamination of procedure surfaces. The solid wall may not contain doors or operable windows. Body piercing or tattooing shall not be performed in an establishment where food is prepared or served, or where services other than body piercing or tattooing is provided including but not limited to places such as hair, nails and tanning services.~~

~~(b) Effective measures shall be taken by the body piercing or tattoo operator to protect against the entrance of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the body piercing or tattoo establishment.~~

~~(c) There shall be a minimum of forty five (45) square feet of floor space for each artist in the body piercing or tattoo establishment for each artist working station. Each body piercing or tattoo establishment shall have an area which may be screened from public view for clients requesting privacy. The material used for the partition/screen must be non porous and can be easily cleaned and disinfected. Multiple body art stations shall be separated at a minimum by a seven (7') foot wall that is smooth, nonporous and easily disinfected.~~

~~(d) The establishment shall have a separate fully enclosed room for the decontamination and packaging of contaminated instruments. This decontamination room shall contain all equipment and supplies used for decontaminating instruments and will be where all steps of the sterilization process shall take place until the transfer of the packaged contaminated instruments to the autoclave. The establishment shall have a separate area or room where the autoclave is housed and utilized and shall only be exposed to contaminated packaged instruments that are loaded directly into the autoclave from the decontamination room. The area or room that contains the autoclave shall not be part of the procedure room or area where clients have access.~~

~~(e) The body piercing or tattoo establishment shall comply with OAC 158:40 and OAC 158:50. In addition, an artificial light source equivalent to at least twenty (20) foot candles three (3) feet off the floor shall be provided in all areas, except that at least 100 foot candles of intensity shall be provided at the level where the body piercing or tattoo procedure is being performed, and where instruments and sharps are assembled.~~

- (f) ~~Fish aquariums shall be allowed in waiting rooms and non-procedural areas where body piercing and tattooing procedures are not performed.~~
- (g) ~~The body piercing or tattoo establishment shall comply with OAC 158:30. In addition, each body piercing or tattoo procedure area shall be equipped with a handwashing facility with hot and cold running water, under pressure, equipped with wrist or foot operated controls and supplied with liquid germicidal soap, and disposable paper towels shall be located at each station.~~
- (h) ~~At least one covered waste receptacle shall be provided in each piercing or tattoo area and each toilet room. Receptacles in the piercing or tattooing area shall be emptied daily and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, capable of being disinfected and kept clean.~~
- (i) ~~No reusable cloth item shall be used in a licensed body piercing or tattoo establishment.~~

310:233-7-1.1. Establishment physical construction

- (a) A mobile unit, including, but not limited to, a mobile home, recreational vehicle, cargo trailer or any other non-permanent facility, shall not be used as a body piercing or tattoo establishment.
- (b) All walls, floors, and procedure surfaces of an establishment shall be smooth, free of open holes or cracks, washable, in good repair, and clean.
- (c) Establishments shall be completely separated by solid walls, with no doors or windows, from any room used for human habitation, where food is prepared or served other than an employee break room, where services other than body piercing or tattooing is provided such as hair, nails and tanning services, or other such activity which may cause potential contamination of procedure surfaces.
- (d) Establishments must comply with all applicable building laws.
- (e) Reusable cloth items cannot be used in the licensed establishment.
- (f) Establishment shall have an area which may be screened from public view for clients requesting privacy.
- (g) Artificial light equivalent to at least twenty (20) foot candles shall be provided in all areas.
- (h) A restroom with at least 1 toilet and not fewer than the toilets required by law shall be provided.
 - (1) The restroom shall be completely enclosed and provided with a self-closing door.
 - (2) A restroom used by females shall be provided with a covered receptacle for sanitary napkins.
 - (3) A supply of toilet tissue shall be available at each toilet.
 - (4) It shall be equipped with a handwashing sink with:
 - (A) Hot and cold running water, under pressure;
 - (B) Liquid germicidal soap;
 - (C) Disposable paper towels; and
 - (D) A covered waste receptacle.

310:233-7-2. Location requirements and limitations [REVOKED]

~~A mobile unit, including, but not limited to, a mobile home, recreational vehicle, cargo trailer or any other non-permanent facility, shall not be used as a permanent body piercing or tattoo establishment.~~

310:233-7-2.1. Procedure areas

- (a) Multiple procedure areas shall be separated from each other by a wall or divider to visually define the space and limit potential contamination of neighboring procedure areas.
- (b) Each procedure area shall:
 - (1) Have a minimum of forty-five (45) square feet of floor space;
 - (2) Have a sharps container available;
 - (3) Be equipped with a handwashing facility with:
 - (A) Hot and cold running water, under pressure;
 - (B) Wrist or foot operated controls;
 - (C) Liquid germicidal soap;
 - (D) Disposable paper towels; and

- (E) A covered waste receptacle.
- (c) All procedure area surfaces, including client chairs and benches shall be cleaned and disinfected after each client.
- (d) Artificial light equivalent to at least one hundred (100) foot candles of intensity shall be provided.

310:233-7-3. Decontamination room

- (a) The establishment shall have a separate:
 - (1) Fully enclosed room for the decontamination and packaging of contaminated instruments; and
 - (2) An area or room where the autoclave is housed and utilized that is only exposed to contaminated, packaged instruments that are loaded directly into the autoclave from the decontamination room.
 - (A) This decontamination room shall contain all equipment and supplies used for decontaminating instruments; and
 - (B) Will be where all steps of the sterilization process take place until the transfer of the packaged contaminated instruments to the autoclave.
- (b) The area or room that contains the autoclave shall not be part of the procedure room or area where clients have access.

310:233-7-4. Waste Disposal

- (a) Contaminated waste which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled shall be placed in a biohazard bag or container which is properly labeled.
- (b) Sharps ready for disposal shall be placed in a sharps container.

SUBCHAPTER 9. LICENSE REQUIREMENTS

310:233-9-1. Body piercing or tattoo license [REVOKED]

- ~~(a) No person, firm, partnership, joint venture, association, business trust, corporation, legal entity or any organized group of persons shall operate a body piercing or tattoo establishment unless it has received a body piercing or tattoo establishment license from the Department.~~
- ~~(b) A license for a body piercing or tattoo establishment shall be issued for the physical location of the body piercing or tattoo establishment and shall not be transferable. A license for a body piercing or tattoo establishment shall be valid from the date of issuance and shall expire one (1) year from the date of issuance.~~
- ~~(c) A current body piercing or tattoo establishment license shall be posted in a prominent and conspicuous area where clients may readily observe it.~~
- ~~(d) Temporary body piercing or tattoo establishment licenses may be issued for body piercing or tattoo procedures provided outside of the physical site of a licensed facility for the purposes of product demonstration, industry trade shows or for educational reasons. A temporary body piercing or tattoo establishment license may be issued for body piercing or tattooing services provided outside of the physical site of a licensed facility for the purpose of body piercing or tattooing in a fixed location at which an individual body piercing or tattoo operator performs body piercing or tattooing for a specified period of not more than three (3) days in conjunction with a single event or celebration, where the primary function of the event or celebration is body piercing or tattooing and the location does not otherwise violate the provisions of 310:233-7-2. A temporary license may be issued if the applicant satisfies the following:
 - ~~(1) The applicant shall be affiliated with a body piercing or tattoo establishment that has a current license;~~
 - ~~(2) The temporary body piercing or tattoo establishment meets the requirements outlined in OAC 310:233-7-1 and 2;~~
 - ~~(3) The applicant's establishment is inspected and approved by the Department prior to issuance of the temporary license;~~~~

- (4) ~~The applicant submits to the Department a request for a temporary demonstration license in writing at least thirty (30) days before the event. The request shall specify:

 - (A) ~~The purpose for which the license is requested;~~
 - (B) ~~The period of time for which the license is requested;~~
 - (C) ~~The location where the temporary demonstration license shall be used; and~~
 - (D) ~~Names and license numbers if applicable of the artists participating.~~~~
- (e) ~~The applicant's temporary establishment shall be contained in a completely enclosed, non-mobile facility.~~
- (f) ~~The applicant shall provide facilities to properly sterilize instruments or shall use only single use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers.~~
- (g) ~~Temporary licenses are not transferable from one special event to another.~~
- (h) ~~License fees shall be as follows:

 - (1) ~~\$1,000.00 for an initial license for tattoo establishments;~~
 - (2) ~~\$500.00 for a renewal tattoo license; and~~
 - (3) ~~\$750.00 for late renewal when the tattoo license is not renewed within thirty (30) days after expiration.~~
 - (4) ~~\$500.00 for an initial license for body piercing establishments;~~
 - (5) ~~\$250.00 for a renewal body piercing license;~~
 - (6) ~~\$350.00 for late renewal when the body piercing license is not renewed within thirty (30) days after expiration;~~
 - (7) ~~\$250.00 for a temporary license for body piercing establishments; and~~
 - (8) ~~\$500.00 for a temporary license for tattooing establishments.~~~~
- (i) ~~The certification fee required by 21 O.S. 842.3(D) shall be paid before an application for license is processed.~~
- (j) ~~Proof of publication evidence compliant with 21 O.S. 842.3(E) shall be filed before an application for license is processed.~~

310:233-9-1.1 Artist and establishment license

- (a) The license holder must be a minimum of eighteen (18) years of age to be eligible for a license.
- (b) A license will need to be renewed annually as it expires one year from the date of issuance, unless it is revoked or suspended by the Department before the expiration date.
- (c) Each license shall be posted in a prominent and conspicuous area where it may can be readily observed by clients.
- (d) A license for a body piercing or tattoo establishment is issued for the physical location of the establishment. The license cannot be transferred to another owner or location.

310:233-9-2. Artist license—[REVOKED]

- (a) ~~The artist must be a minimum of eighteen (18) years of age to be eligible for a license.~~
- (b) ~~No person shall practice body piercing or tattooing procedures without first obtaining an artist license from the Department.~~
- (c) ~~The artist license shall be valid from the date of issuance and shall automatically expire one (1) year from the date of issuance unless revoked or suspended by the Department. The artist shall have a current bloodborne pathogen certificate, CPR certificate and current first aid certification for license or renewal of license.~~
- (d) ~~The application for an artist license shall include:

 - (1) ~~Name;~~
 - (2) ~~Date of birth;~~
 - (3) ~~Sex;~~
 - (4) ~~Residence address;~~
 - (5) ~~Mailing address;~~
 - (6) ~~Telephone number;~~~~

- (7) ~~Place(s) and licensed license number of employment as an artist;~~
- (8) ~~Proof of training and experience which shall include one of the following:~~
 - (A) ~~Documentation of two (2) years' experience acquired in another state in compliance with applicable requirements of that state. Documentation may include copies of licenses, statements from the state's regulatory authority, statements from the facility operator where the applicant worked, membership in an entity for which practice as an artist is a requisite, or government forms such as tax returns filed by the artist showing employment as an artist; or~~
 - (B) ~~Documentation of completion of an Oklahoma apprentice program that complies with 310:233-9-5, 310:233-9-6 and 310:233-9-7, or documentation from another state showing completion of training that is substantially equivalent to an Oklahoma apprentice program and sponsorship per 310:233-9-5, 310:233-9-6 and 310:233-9-7;~~
- (9) ~~Current bloodborne pathogen certification recognized from a nationally accredited program compliant with 310:233-9-2(m); and~~
- (10) ~~Current first aid certification compliant with 310:233-9-2(n); and~~
- (11) ~~Current CPR certification compliant with 310:233-9-2(o).~~
- (e) ~~Each artist license shall be conditioned upon continued compliance with the provisions of this section as well as all applicable provisions of OAC 310:233.~~
- (f) ~~Each artist license shall be posted in a prominent and conspicuous area where it may be readily observed by clients.~~
- (g) ~~License fees shall be as follows:~~
 - (1) ~~\$250.00 for an initial license;~~
 - (2) ~~\$250.00 for a renewal license;~~
 - (3) ~~\$350.00 for late renewal when the license is not renewed within thirty (30) days after expiration;~~
 - and
 - (4) ~~\$50.00 temporary artist license, not to exceed 7 days.~~
- (h) ~~A person who has acceptable proof of experience or training as required in 310:233-9-2(d)(8)(A and B) in performing tattooing may be approved by the Department to take the test specified in 310:233-9-2(j). A candidate shall have a minimum passing score of 70% on the written examination that will include:~~
 - (1) ~~Knowledge of Anatomy, Physiology, and Disease;~~
 - (2) ~~Theory and application of ink;~~
 - (3) ~~Safety and Aseptic Technique;~~
 - (4) ~~Professionalism; and~~
 - (5) ~~Client Consultation Services.~~
- (i) ~~A candidate who does not meet this score can retest up to two (2) times. A candidate who does not pass the written examination must wait at least seven (7) days before retesting. Any candidate who is unable to attain competency after three attempts shall be required to enroll or re-enroll in an apprentice program. To apply, the candidate shall submit an application that requires the following:~~
 - (1) ~~Notarized copy of the applicant's certificate of birth;~~
 - (2) ~~Notarized copy of the applicant's driver's license or other similar photo identification;~~
 - (3) ~~Notarized copy of his/her credentials and professional resume of satisfactory completion of any programs they have completed for proof of experience; and~~
 - (4) ~~Proof of experience as required in 310:233-9-2(d)(8)(A and B).~~
- (j) ~~The Department shall accept the test administered by the Oklahoma Department of Career Technology with results to be evidenced by a completed testing verification provided to the Department by the Oklahoma Department of Career Technology.~~
- (k) ~~Within 30 days after receipt of a completed application, the Department shall notify the applicant in writing of its decision to approve or disapprove the applicant to take the examination. An applicant who is eligible for the testing process must present a letter of notification from the Department to administer the test given by Oklahoma Department of Career and Technology Education.~~

(l) Upon successful completion of the testing process, the applicant is eligible for issuance of a permanent artist license. In order to request issuance of a license, the applicant must submit the following to the Department:

- (1) Any changes in the application previously submitted as required in 310:233-9-2(d); and
- (2) Completed Testing Verification Form provided by the Department which includes:
 - (A) Skills evaluation information; and
 - (B) Written certification examination records.

(m) Bloodborne training certification shall contain at a minimum the following elements:

- (1) A general explanation of the epidemiology and symptoms of bloodborne diseases;
- (2) An explanation of the modes of transmission of bloodborne pathogens;
- (3) An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;
- (4) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;
- (5) An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;
- (6) Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;
- (7) An explanation of the basis for selection of personal protective equipment;
- (8) Information on the Hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated;
- (9) Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;
- (10) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;
- (11) Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident; and
- (12) An explanation of the signs and labels and/or color coding required.

(n) First aid certification shall include instruction in:

- (1) Injury and acute illness as a health problem;
- (2) Interactions with the local emergency medical services system;
- (3) Responsibility for maintaining a current list of emergency telephone numbers (police, fire, ambulance, poison control) easily accessible to all employees;
- (4) Instruction in the principles and performance of bandaging of the head, chest, shoulder, arm, leg, wrist, elbow, foot, ankle, fingers, toes, and knee; and
- (5) Apprentices shall be provided with adequate instruction on the need for and use of universal precautions that should include:
 - (A) The meaning of universal precautions;
 - (B) Which body fluids are considered potentially infectious, and which are regarded as hazardous;
 - (C) The value of universal precautions for infectious diseases;
 - (D) The necessity for keeping gloves and other protective equipment readily available and the appropriate use of them; and
 - (E) The appropriate tagging and disposal of any sharp item or instrument requiring special disposal measures such as blood-soaked material, and the appropriate management of blood spills.

(o) CPR training certification shall include instruction in:

- (1) Performing a primary survey of each victim including airway, breathing, and circulation assessments;
- (2) The presence of any bleeding, establishing and maintaining adult airway patency;
- (3) Performing adult breathing resuscitation; and

~~(4) Performing choking assessments and appropriate first aid intervention.~~

310:233-9-2.1. Event and establishment license application

- (a) A completed application shall include:
- (1) For the applicant:
 - (A) Name;
 - (B) Mailing address;
 - (C) Telephone number; and
 - (D) E-mail address.
 - (2) For the establishment:
 - (A) Name;
 - (B) If tattooing, body piercing, or both are to be conducted;
 - (C) Information specifying whether the establishment is owned by an association, corporation, individual, partnership, or other legal entity;
 - (D) Mailing address;
 - (E) Physical address;
 - (F) Telephone number; and
 - (G) E-mail.
 - (H) Other information as required by the Department.
- (b) **Event.** In addition to the information identified in OAC 310:233-9-3.1, an event application shall be submitted at least thirty (30) days prior to the event and include:
- (1) Event Operator Name;
 - (2) The physical location of the event;
 - (3) The purpose of the event;
 - (4) The start and end time of the event; and
 - (5) The names and license numbers of the artists participating.
- (c) **Issuance.** The Department will issue a license to the event or establishment after:
- (1) A properly completed application is received;
 - (2) The required fees are received; and
 - (3) A pre-licensing inspection shows that the event or establishment is in compliance with this Chapter and meets the Department's criteria for licensure.

310:233-9-3. Prohibitions [REVOKED]

The following acts shall be prohibited:

- ~~(1) Owning, operating or soliciting business as a body piercing or tattoo establishment or operator without first obtaining all necessary licenses and approvals from the Department, unless specifically exempted by OAC 310:233.~~
- ~~(2) Obtaining or attempting to obtain a body piercing or tattoo establishment license or an artist license by means of fraud, misrepresentation or concealment.~~

310:233-9-3.1. Event license

- (a) An event license may be issued for body piercing or tattoo procedures for the purposes of:
- (1) Product demonstration;
 - (2) Industry trade shows; or
 - (3) Educational reasons.
- (b) The event shall:
- (1) Be for a specified period not to exceed three (3) consecutive days;
 - (2) Be a single event, where the primary function of the event is body piercing or tattooing;
 - (3) Be affiliated with an establishment that has a current license issued by the Department;
 - (4) Be contained in a completely enclosed, non-mobile environment;
 - (5) Have artists that meet the requirements outlined in OAC 310:233-9-4.1; and

- (6) Ensure a safe and sanitary environment by:
 - (A) Providing facilities to properly sterilize instruments; or
 - (B) Only using single use, prepackaged, sterilized equipment.
- (c) Temporary licenses are not transferable from one special event to another.

310:233-9-4.1. Individual license and certificate applications

- (a) The complete application for any individual license or certificate shall include:
 - (1) Name;
 - (2) License number if applicable;
 - (3) List of Alias;
 - (4) Date of birth;
 - (5) Sex;
 - (6) Residence address;
 - (7) Mailing address;
 - (8) Email address;
 - (9) Telephone number;
 - (10) Location of current practice Identified;
 - (11) The license type, tattooing or body piercing, Identified;
 - (12) Copy of the applicant's certificate of birth;
 - (13) Copy of the applicant's government-issued photo identification (e.g. a valid driver's license, passport, etc.);
 - (14) Other information as required by the Department; and
 - (15) Any applicable fees.
- (b) **Documents.** In addition to the information identified in (a) of this section, an initial application for apprentice, permanent, or temporary artist shall include:
 - (1) Current certification from a recognized nationally accredited program for:
 - (A) Bloodborne pathogens;
 - (B) First aid certification; and
 - (C) CPR certification.
 - (2) Proof of experience such as:
 - (A) Proof of the successful completion of an apprentice program as described in OAC 310:233-9-8.1, or
 - (B) Documentation of two (2) years of appropriate licensure by another government entity such as:
 - (i) Copies of licenses,
 - (ii) Statements from the state's regulatory authority,
 - (iii) Statements from the facility operator where the applicant worked,
 - (iv) Membership in an entity for which practice as an artist is a requisite, or
 - (v) Government forms such as tax returns filed by the artist showing employment as an artist;
- (c) **Skills challenge.** A person who has acceptable proof of experience or training as required in (a) or (b) of this section, may be approved by the Department to take the skills challenge to obtain an apprentice or permanent license.
 - (1) Within thirty (30) days after receipt of a completed application, the Department shall notify the applicant of its decision to approve or disapprove the applicant to take the examination.
 - (2) An applicant who is eligible for the skills challenge must present a letter of notification from the Department to administer the test given by Oklahoma Department of Career and Technology Education.
 - (3) The Department shall accept the test administered by the Oklahoma Department of Career Technology with results to be evidenced by a completed testing verification provided to the Department by the Oklahoma Department of Career Technology.
 - (4) The written examination will include:

- (A) Knowledge of Anatomy;
- (B) Physiology, and Disease;
- (C) Theory and application;
- (D) Safety and Aseptic Technique;
- (E) Professionalism; and
- (F) Client Consultation Services.
- (5) Minimum passing score for the written examination is 70%.
- (6) A candidate who does not meet this score may retest up to two (2) times, however
 - (A) They must wait at least seven (7) days before retesting; and
 - (B) After three attempts are required to repeat the student program.
- (d) **Renewals.** In addition to the information identified in (a) of this section, a renewal of an artist license shall include current certification from a recognized nationally accredited program for:
 - (1) Bloodborne pathogens;
 - (2) First aid certification; and
 - (3) CPR certification.
- (e) **Student and apprentice.** In addition to the information identified in (a) of this section, a student or apprentice shall identify their sponsor.
- (f) **Sponsor.** In addition to the information identified in (a) of this section, a sponsor shall provide:
 - (1) An approved curriculum; or
 - (2) A proposed curriculum if none has been approved prior.
 - (3) The applicant for a sponsor certification shall meet the following qualifications:
 - (A) Holds a current Oklahoma artist license in the appropriate field;
 - (B) Provides documentation of legally practicing in the appropriate field for at least five (5) years;
 - (C) Supervises no more than one student in each curriculum at any one time;
 - (D) Supervises no more than one apprentice in each curriculum at any one time.

310:233-9-5. Apprentice sponsor [REVOKED]

- ~~(a) Upon filing an application with the Department any person meeting the qualifications set forth in this section shall be able to sponsor a body piercing or tattoo apprentice if the person:

 - ~~(1) Holds an Oklahoma body piercing or tattoo artist license; and~~
 - ~~(2) Provides documentation of legally practicing body piercing or tattooing for at least five years; and~~
 - ~~(3) Provides a curriculum to the Department for approval.~~~~
- ~~(b) The sponsor shall develop a curriculum as listed in 310:233-9-6 for body piercing or tattooing in the apprentice program.~~
- ~~(c) The sponsor shall not have more than one apprentice working on their curriculum at one time. The sponsor shall have no more than one apprentice working under supervision with an apprentice license.~~

310:233-9-5.1. License and certificate fees

- (a) Tattoo or body piercing artist license and registration fees are as follows:
 - (1) Student: \$0;
 - (2) Sponsor: \$0;
 - (3) Apprentice: \$250.00;
 - (4) Initial: \$250.00;
 - (5) Renewal: \$250.00;
 - (6) Renewal thirty (30) days after expiration: \$350.00; and
 - (7) Temporary: \$50.00;
 - (A) Not to exceed seven (7) consecutive days; and
 - (B) Not to exceed thirty (30) total days per year.
- (b) Establishment license fees are as follows:

- (1) Tattoo:
 - (A) Initial: \$1,000.00.
 - (B) Renewal: \$500.00.
 - (C) Renewal thirty (30) days after expiration: \$750.00.
 - (D) Event: \$500.00.
- (2) Body piercing:
 - (A) Initial: \$500.00.
 - (B) Renewal: \$250.00.
 - (C) Renewal thirty (30) days after expiration: \$350.00.
 - (D) Event: \$250.00.

310:233-9-6. Apprentice program [REVOKED]

- (a) ~~Curriculum requirements shall be taught over a minimum of 1500 hours to include the following:~~
 - (1) ~~Microbiology;~~
 - (2) ~~Sanitation and disinfection;~~
 - (3) ~~Safety;~~
 - (4) ~~Bloodborne pathogen standards;~~
 - (5) ~~Professional standards; and~~
 - (6) ~~Body piercing or tattooing.~~
- (b) ~~The apprentice program shall be a minimum of one (1) year and no more than two (2) years in length.~~
- (c) ~~After completion of the curriculum program the apprentice shall be given challenge status. The apprentice shall take the test administered by the Oklahoma Department of Career and Technology Education with a passing minimum score of 70%. The apprentice license to practice body piercing or tattooing shall be under the direct face to face supervision of their apprentice sponsor.~~

310:233-9-6.1. Student curriculum

- (a) Curriculum requirements shall be taught over 1500 hours over the course of one year to include the following:
 - (1) Microbiology;
 - (2) Sanitation and disinfection;
 - (3) Safety;
 - (4) Bloodborne pathogen standards;
 - (5) Professional standards; and
 - (6) Body piercing or tattooing procedures based on the field of teaching.
- (b) The sponsor shall sign off on the successful completion of the student curriculum with the completion of 1500 hours.
- (c) The sponsor shall sign off on the successful completion of the Apprentice program with the completion of one (1) year of supervised, licensed work.

310:233-9-7. Apprentice [REVOKED]

- (a) ~~Any person desiring to enroll in the body piercing or tattoo apprentice program shall be required to provide their documentation as specified in 310:233-9-2(i)(1-4) to the Department before beginning their apprentice program. The apprentice shall identify their sponsor and the apprentice program in their application.~~
- (b) ~~The applicant for an apprentice license must have completed a bloodborne pathogens certification, first aid certification and CPR certification.~~
- (c) ~~The license shall be \$250.00 for an apprentice for one (1) year after completion of the curriculum program. The apprentice shall renew the license through the Department as an apprentice license or be eligible for an artist license after one year from the date of the initial apprentice license that was issued.~~

(d) ~~The sponsor of the apprentice shall sign off on the successful completion of the curriculum program with the completion of 1500 hours. The sponsor shall sign off on the completion of one year of supervision practicing as a licensed apprentice.~~

310:233-9-7.1. Suspension or withdrawal of sponsor certificate

(a) A sponsor certificate may be withdrawn or suspended temporarily by the Department for failure of the sponsor to comply with this chapter.

(b) The sponsor shall be notified in writing by the Department of the action and the ability to challenge the decision.

~~310:233-9-8. License application and review process [REVOKED]~~

~~An individual applying for license shall provide the application in completion with the information identified in 310:233-9-2 for review by the Department for eligibility of testing and licensure.~~

SUBCHAPTER 11. ENFORCEMENT

~~310:233-11-1. General requirements [REVOKED]~~

(a) ~~Body piercing or tattooing establishments that continue to operate without proper establishment licenses and artist licenses from the Department or operate in violation of OAC 310:233 shall be subject to legal remedial actions and sanctions as provided by law, the APA, 75 O.S.1991, Section 250 et seq. as amended and the Oklahoma Public Health Code, 63 O.S. Section 1-101 et seq.~~

(b) ~~A representative of the Department shall present official credentials and provide notice of the purpose and intent upon entering a body art piercing or tattooing establishment to make an inspection. Such an inspection shall be conducted a minimum of two times a year or as often as necessary to ensure compliance with OAC 310:233.~~

(c) ~~If, after investigation, the Department finds that an artist or operator is in violation of OAC 310:233 or 21:841.1 et seq., the Department shall advise the artist or operator, in writing, of its findings and give a date of correction within a reasonable period of time, not to exceed thirty (30) days.~~

(d) ~~If the Department has reasonable cause to suspect that a communicable disease is being or may be transmitted by an artist, unapproved or malfunctioning equipment is being used, or unsanitary or unsafe conditions which may adversely impact the health of the public are present in the establishment, upon written notice to the owner or operator, the Department shall take such action as necessary and appropriate, including but not limited to the following:~~

~~(1) Issue an emergency order summarily excluding the performance of body piercing or tattoo procedures by the body piercing or tattooing establishment and any or all artists who are responsible, or reasonably appear responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health; or~~

~~(2) Issue an order to summarily suspend the license of the licensed body piercing or tattoo establishment and the licenses of any and all artists who are responsible, or reasonably appear responsible, until the Department determines there is no further risk to the public health.~~

(e) ~~In taking any action to deny, revoke, suspend, or refuse renewal of a license, the Department shall comply with the provisions of the APA, 75 O.S.1991, Section 250 et seq. as amended and the Oklahoma Public Health Code, 63 O.S. Section 1-101 et seq.~~

(f) ~~Administrative fines may be levied for violations of OAC 310:233. Fines for violations shall include, but not be limited to:~~

~~(1) Failure of an apprentice sponsor to supervise and comply with 310:233, up to \$5,000.00 per day or withdrawal or suspension of approval;~~

~~(2) Failure to obtain appropriate licenses, up to \$5,000.00 per day or denial of license per violation;~~

~~(3) Failure to observe procedures to prevent the transmission of a bloodborne pathogen, up to \$5,000.00 per day per violation;~~

- (4) ~~Failure to maintain instruments used in body piercing or tattooing in a sterile condition, up to \$5,000.00 per day per violation;~~
- (5) ~~Failure to install and maintain appropriate handwashing facilities, up to \$5,000.00 per day or revocation per violation;~~
- (6) ~~Failure to maintain client records, artist information, operator information, or monthly spore test records, up to \$5,000.00 per day per violation; and~~
- (7) ~~Failure of an artist to change exam gloves between clients, up to \$5,000.00 per day per violation.~~

~~(g) In addition to administrative fines the Department may deny, revoke, suspend, withdraw or refuse to renew licensure for violations of this Chapter or 21 O.S. Section 842.1 et seq.~~

310:233-11-1.1. Waivers and variances

(a) The operator of an establishment may request that a waiver be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation.

(b) The operator of an establishment may request that a variance be granted to portions of this chapter.

(c) Waivers and variances requested pursuant to this Subchapter are subject to approval by the Department.

(d) An operator must submit a written request detailing:

- (1) The nature of the nonconforming use;
- (2) The relevant section of this Chapter; and
- (3) A timeline for correction of the nonconforming use; and
- (4) A justification of how any public health concerns will be addressed.

(e) If a request is approved, then the Department will send a notice of approval. If the operator has not received a notice of approval within sixty (60) calendar day from when the request was submitted, then the request has been denied.

(f) Waivers and variances are not considered to be part of the license and may be revoked at any time, for any reason, by the Department. The licensee is not entitled to a hearing prior to revocation of a waiver or variance, but will be provided written notice of any revocation along with instructions that the licensee must become compliant by a certain date.

310:233-11-2. Investigation, filing of actions and hearing procedures [REVOKED]

~~(a) If the Department determines that a possible violation of the Body Piercing or Tattoo statutes or Rules has occurred, the Department may commence an investigation of the complaint.~~

~~(b) A body piercing or tattooing establishment and body piercing or tattoo artist, or applicant for licensure, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:233-11-2(a), shall not:~~

- ~~(1) Knowingly make a false statement of material fact; or~~
- ~~(2) Fail to disclose a fact necessary to correct a misapprehension known by the establishment, artist or applicants for licensure to have arisen in the application or the matter under investigation; or~~
- ~~(3) Fail to comply with a demand for information made by the Department or any designated representative thereof, unless a request for a protective order has been first made pursuant to the provisions of OAC 310:2, in which case the establishment, artist or applicant may await the decision concerning the issuance or denial of a protective order before making any response.~~

~~(c) The Department may begin a disciplinary action against an establishment or artist who is not exempt from licensure by following the procedures in OAC 310:2. The Department shall specifically state the violation(s) and shall request the appropriate remedy. Remedies include revocation of a license, suspension of a license, and administrative penalty.~~

~~(d) If in the course of an investigation the Department determines that a licensee or applicant for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may~~

~~order a summary suspension of the establishment or artist's license or authorization for sponsoring an apprentice.~~

~~(e) Hearings shall be conducted by the Commissioner of Health or his designee as specified in OAC 310:2. The Department shall recommend the most appropriate penalty at the conclusion of the evidence.~~

~~(f) The Department, either by order of the Commissioner or an Administrative Law Judge, shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act to the district courts.~~

~~(g) Any person found to be practicing body piercing or tattooing without being either properly licensed, approved for supervisor status, exempt or under the approved supervision of an apprentice sponsor as part of the licensure process shall be ordered to cease practicing or supervising and may be subject to an administrative penalty. The Department may seek the assistance of the courts if the actions continue.~~

~~(h) The Department may assess an administrative penalty against an individual or licensee if the order includes a finding that the individual or licensee:~~

~~(1) Violated any provision of the Body Piercing and Tattooing statutes, including practicing body piercing or tattooing without licensure, exemption or under the approved supervision of an approved sponsor; or~~

~~(2) Violated any rule within this Chapter; or~~

~~(3) Violated any order issued pursuant to this Chapter.~~

~~(i) The total amount of the administrative penalty assessed shall not exceed ten thousand dollars (\$10,000.00) for any related series of violations.~~

310:233-11-2.1. Time frame for correction

The license holder shall correct violations by a date and time agreed to or specified by regulatory authority but no later than thirty (30) calendar days after the inspection.

310:233-11-3. Suspension or revocation of licenses [REVOKED]

~~(a) A license issued under the provisions of OAC 310:233 may be suspended temporarily by the Department for failure of the holder to comply with the requirements of OAC 310:233 or 21 O.S. Section 841.1 et seq.~~

~~(b) Whenever an artist has failed to comply with any notice issued under the provisions of OAC 310:233 or 21 O.S. Section 841.1 et seq., the Department shall send notice to the artist that the license is immediately suspended. A hearing shall be provided if a written request for a hearing is filed with the Department's Office of Administrative Hearings.~~

~~(c) For repeated or serious violations that threaten the health of the client or artist, for violations of the requirements of OAC 310:233 or 21 O.S. Section 841.1 et seq. or for refusal to allow Department personnel to inspect the licensed facility, including documents and records, a license may be revoked after a hearing.~~

310:233-11-3.1. Investigation and enforcement

(a) Hearings and disciplinary actions are conducted in accordance with the Administrative Procedures Act and Chapter 2 of this Title.

(b) The Department will specifically state the violation(s) and request the appropriate remedy. Remedies may include revocation or suspensions of a license, and/or an administrative penalty.

(c) The total amount of the administrative penalty assessed cannot exceed \$10,000.00 for any related series of violations.

(d) If the Department determines that a licensee or applicant for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the establishment or artist's license or authorization for sponsoring a student or apprentice.

(e) An applicant for licensure shall not:

(1) Knowingly make a false statement of material fact; or

- (2) Fail to disclose a fact necessary to correct a misapprehension regarding the application for licensure or the matter under investigation; or
- (3) Fail to comply with a request for information made by the Department or any designated representative thereof.

~~310:233-11-4. Suspension or withdrawal of apprentice sponsor [REVOKED]~~

~~(a) An approval from the Department for an apprentice sponsor issued under the provisions of OAC 310:233 may be withdrawn or suspended temporarily by the Department for failure of the apprentice sponsor to provide adequate training to the apprentice under the requirements of OAC 310:233.~~

~~(b) Whenever an apprentice sponsor has failed to comply with the provisions of OAC 310:233 the Department shall send notice to the apprentice sponsor that the approval is immediately withdrawn or suspended. A hearing shall be provided if a written request for a hearing is filed with the Department's Office of Administrative Hearings.~~