

# **N.J.A.C. 8:27-1.1**

## **§ 8:27-1.1 Purpose**

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This chapter establishes sterilization, sanitation, and safety standards for persons engaged in the business of tattooing, permanent cosmetics, and ear and body piercing in order to protect the public's health.

# N.J.A.C. 8:27-1.2

## § 8:27-1.2 Scope

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- (a) Except as a subchapter otherwise indicates, this chapter applies to:
  - 1. Persons and entities that apply for licensure or permission to operate body art and ear-piercing establishments; and
  - 2. Operators of body art and ear-piercing establishments.
- (b) The general and discipline-specific standards in this chapter for qualification and training of practitioners and apprentices to perform body art and ear-piercing procedures at an operator's establishment or under an operator's license or permit do not apply to health care providers performing body art and ear-piercing procedures at an operator's establishment or under an operator's license or permit.
- (c) Pursuant to N.J.S.A. 26:1A-7, this chapter is part of the State Sanitary Code, has the force and effect of law, and is enforceable by the New Jersey Department of Health (Department), other health authorities, and State and local police, pursuant to N.J.S.A. 26:1A-9.
- (d) This chapter implements provisions at N.J.S.A. 24:1 through 17, addressing devices and cosmetics, and is enforceable by the Department, other health authorities, and State and local police, pursuant to N.J.S.A. 24:2-1 and 24:17-1 and 2.

## History

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### HISTORY:

Amended by R.2022 d.089, effective July 18, 2022.

See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).

Rewrote the section.

# N.J.A.C. 8:27-1.3

## § 8:27-1.3 Definitions

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(a) The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

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

(a) "After-care instruction" means direction and information that a practitioner gives to a client following the performance of a body art or ear-piercing procedure, in both spoken and printed form, which are specific to the procedure performed, and which identify:

1. Client responsibilities and procedures for care of the body art or ear piercing and the surrounding area;
2. Physical, cosmetic, and/or other restrictions;
3. Indicators of infection and other adverse reactions, upon the appearance of which a client should seek medical treatment; and
4. With respect to body piercing, the need to maintain the tightness of the balls attached to barbell studs to prevent:
  - i. The client's ingestion of the jewelry; and/or
  - ii. The imbedding of jewelry into a client's skin or mucosal linings.

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

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

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

"American Conference of Governmental Industrial Hygienists" (ACGIH) means that private nonprofit organization which, for the purposes of this chapter, provides technical materials and expertise and is located at 1330 Kemper Meadow Drive, Cincinnati, Ohio 45240.

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

"Apprentice" means any person that performs the art of tattooing, permanent cosmetics and/or body piercing under the direct supervision of a practitioner in order to learn body art procedures.

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

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

"Biological indicator" means a standardized viable population of microorganisms known to be resistant to the mode of sterilization being monitored.

"Bloodborne pathogens standard" means 29 CFR 1910.1030, and includes interpretations thereof, established in applicable "Standard Interpretations" that the United States Department of Labor, Occupational Safety and Health Administration issues, which are available at <https://www.osha.gov/laws-regs/standardinterpretations/standardnumber/1910/1910.1030%20-%20Index/result>.

"Body art" means the practice of physical body adornment using the following techniques, but does not include ear piercing:

1. Body piercing;
2. Tattooing; and
3. Permanent cosmetics.

"Body art establishment" means any place or premises, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.

"Body piercing" means puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized or disinfected jewelry or other adornment thereto in the opening.

"Branding" means the application of a heated material (usually metal) to the skin, creating a serious burn that eventually results in a scar.

"Camouflage" means a body art procedure that a permanent cosmetics practitioner performs to restore by pigment insertion the appearance of skin that has been altered by:

1. An injury (such as scarring resulting from an accident, a burn, or a communicable disease, such as varicella or measles);
2. A clinical condition (such as pigment loss resulting from vitiligo); and/or
3. The clinical treatment of an injury, an illness, or a clinical condition (such as scarring that results from surgery or the application of hair transplants, and hyperpigmentation that results from chemotherapy).

"Chemical integrator" means a chemical or physical device designed to provide an integrated response to various defined combinations of temperature, time, and the presence of steam.

"Clean" or "cleanliness" means the absence of soil and dirt.

"Communicable disease" means "communicable disease" as N.J.A.C. 8:57 defines that term.

"Concealment" means a body art procedure that a tattoo or permanent cosmetics practitioner performs to change the appearance of an atypical area of skin or existing body art by covering the area with patterns, pictures, or legends; provided a tattoo artist shall not perform concealment to restore the appearance of skin altered by an injury, an illness, or the treatment thereof, that is, to perform camouflage.

"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 or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined, N.J.A.C. 7:26-3A.

"Cutting" (also known as scarification) means creating a design by cutting skin or other soft tissue to leave a scar, using acid, a sharp blade, a knife, or another chemical, implement, or device the manufacturer of which neither designed nor intended for the purpose of performing body art.

1. In "cutting," one might rub pigment or another substance into the cut skin, leaving a colored or raised scar.
2. The term "cutting" does not include microblading.

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

1. Disinfection for purposes of preparing jewelry for body piercing consists of:
  - i. Thorough cleaning of the jewelry in an ultrasonic cleaner;
  - ii. Soaking the jewelry in a solution of 70 percent to 90 percent isopropyl alcohol for 15 minutes; and
  - iii. Allowing the jewelry to air dry prior to packaging.

"Ear piercing" means the puncturing of the ear lobe and the trailing edge of the ear using a pre-sterilized single-use, stud-and-clasp ear-piercing system following the manufacturer's instructions.

"Emancipated minor" means a person under 18 years of age that has been freed from the legal authority, care, custody, and control of another by the effect of a written law or court order.

"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 the operation of a body art establishment.

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

"Hand-sink" means a fixture equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

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

"Health authority" means a registered environmental health specialist or health officer representing the Department or a local health agency with jurisdiction.

"Health care provider" means a physician or physician assistant licensed by the State of New Jersey pursuant to Title 45 of the Revised Statutes who is acting within the licensee's applicable scope of practice, as determined by the applicable licensing board.

"High level disinfection" means a process that kills vegetative bacteria, tubercle bacillus, fungi, lipid and non-lipid viruses and bacterial spores.

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

"Hot water" means water which attains and maintains a temperature between 95 degrees and 110 degrees Fahrenheit.

"Implant" means any object implanted fully under the skin.

"Instruments" means body art equipment. Such equipment includes, but is not limited to, hand pieces, piercing needles, needle bars, insertion tapers, forceps, hemostats, tweezers, or other implements used to pierce, puncture or be inserted into any part of the human body for the intended purpose of making a permanent hole; or may come in contact with a client's body or possible exposure to bodily fluids during body art procedures. Such equipment also includes studs, hoops, rings or other decorative jewelry, materials or apparatuses inserted in any part of the human body for the intended purpose of placement in the hole resulting from piercing.

"Invasive" means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

"Jewelry" means any personal ornament inserted into a newly pierced area, and may be made of surgical implant grade stainless steel, solid 14 karat or 18 karat white or yellow gold, niobium, titanium, platinum, glass or a dense, low-porosity plastic.

"Legal guardian" means an individual who, by legal appointment or by the effect of a written law, has been given custody of a minor or adult.

"Lip" means either of the two fleshy parts or folds that surround the mouth or oral cavity and are used for human speech.

"Low level disinfectant" means a process that kills most vegetative bacteria, some fungi, and some viruses, but cannot be relied on to kill resistant microorganisms such as mycobacteria or bacteria spores.

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

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

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

"Microblading" means a permanent cosmetics procedure performed by a qualified permanent cosmetics practitioner or apprentice at a permanent cosmetics establishment, using a configuration of needles attached to a handle, often described as a blend between a scalpel and a fine-toothed comb, to manually create small cuts that resemble eyebrow hairs, which are then filled in with pigment to achieve the appearance of fuller brows, and as further described in the National Environmental Health Association, *Policy Statement on Microblading* (Denver, CO, July 2018), incorporated herein by reference, as amended and supplemented, available at [https://www.neha.org/sites/default/files/publications/position-papers/NEHA\\_Policy\\_Statement\\_Microblading\\_FINAL.pdf](https://www.neha.org/sites/default/files/publications/position-papers/NEHA_Policy_Statement_Microblading_FINAL.pdf).

"Minor" means a person under 18 years of age.

"Needle building" means a process of assembling steel needles from a loose pack into bundles or arrangements. The needles are then attached to a stainless steel bar.

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

"Operator" means an owner of an establishment.

1. The term, "operator," includes a person whom an owner designates as having control, custody, and/or management of the day-to-day operations, of a body art establishment.

"Permanent cosmetics" or "micropigmentation" means the intradermal implanting of inert pigments, colors, and/or dyes, which results in permanent alteration of tissue to gain a cosmetic effect, and includes the form of micropigmentation known as "microblading."

"Permit" means written approval by the health authority to operate a body art establishment. Approval is given in accordance with this chapter and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

"Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons.

"Piercing instrument" means a hand-held tool manufactured exclusively for piercing the earlobe, or trailing edge of the ear, into which studs and clutches are placed and inserted into the earlobe by a hand-squeezed or spring loaded action to create a permanent hole. The tool is made of plastic, stainless steel or other material that is able to be disinfected.

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

"Practitioner" means any person that performs the act of tattooing, permanent cosmetics and/or ear and body piercing.

"Premises" means the entire building or structure within which body art services are provided.

"Processing equipment" means mechanical devices used for the cleaning and sterilization of instruments used for body art, such as ultrasonic cleaners and steam sterilization units.

"Procedure surface" means any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the site of the body art procedure or any associated work area which may require sanitizing.

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

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

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

"Separate area" means an area away from public access and viewing, isolated from a reception or waiting area, where piercings are conducted upon the genital, nipple, or any other discretionary part of a person's body, or a designated area which is segregated from other business activities or services when ear piercings are conducted.

"Single use" means to be used one time for only one client and to be discarded after use.

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

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

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

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

1. The terms "healthcare facility," "healthcare organization," and the like shall be construed to mean an establishment;
2. The terms "healthcare worker," "healthcare professional," and the like shall be construed to mean a practitioner, apprentice, and other staff with occupational exposure; and
3. The term "patient" shall be construed to mean client.

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

"Suspend" means disciplinary action taken by the health authority.

"Tattooing" means any method of placing ink or other inert pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of permanent cosmetics.

"Temporary establishment" means an establishment that has been issued a permit by the local health authority to operate for the purpose of performing body art procedures for not more than 14 calendar days in conjunction with a single event.

"Tip" means the stainless steel replacement part that attaches to the body of the tube.

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

1. American Academy of Micropigmentation Board Certified Platinum Trainer;
2. Society of Permanent Cosmetic Professionals Trainer Membership; or
3. SofTap(R), Inc., Trainer.

"Tube" means the stainless steel component which is attached to the tattoo machine and the tip.

"Work station" means the area or room used for the purpose of performing body art procedures by a practitioner, operator or apprentice.

## History

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### HISTORY:

Petition for Rulemaking.

See: 49 N.J.R. 146(a), 286(a).

Amended by R.2022 d.089, effective July 18, 2022.

See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).

Added definitions "Adverse reaction", "Alliance of Professional Piercers", "Alliance of Professional Tattooists, Inc.", "American Academy of Micropigmentation", "Areola restoration", "Bloodborne pathogens standard", "Concealment", "Hand Hygiene Guideline", "Health care provider", "HIV", "Measure of pH", "Medical gloves", "Microblading", "Minor", "Occupational exposure", "Pigment", "Public Health and Food Protection Program", "Responsible person", "Safety data sheet", "Society of Permanent Cosmetic Professionals", "SofTap(R), Inc.", "Standard precautions", and "Trainer or instructor of permanent cosmetics"; deleted definitions "Acceptable", "Approved", "Medical grade gloves", "Physician", and "Universal precautions"; substituted definitions "After-care instruction" for "After care", "Permanent cosmetics" for "Permanent cosmetics," and "Communicable disease" for "Communicable diseases"; rewrote definitions "Antiseptic", "Body art", "Branding", "Camouflage", "Cutting", "Ear piercing", "Establishment", "Health authority", "Lip", "Operator", and "Single use"; and in definition "Disinfection", added 1.