

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(Amendment)**

**902 KAR 45:065. Tattooing.**

RELATES TO: KRS 194A.050[Chapter 13B], 211.005, 211.015, 211.025, 211.760, 383.085, 387.010, 28 C.F.R. 36.104, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 194A.050(1), 211.760[(3)]

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfil the responsibilities vested in the cabinet. KRS 211.760(2) requires non-medical persons who engage in or carry on any business of tattooing to register with a local health department. KRS 211.760(3) requires the cabinet[~~for Health Services~~] to promulgate administrative regulations relating to: (a) health and cleanliness of places of business; (b) sterilization of tattooing instruments and equipment; (c) procedures to prevent the spread of disease; (d) procedures to prevent tattooing of minors without the written notarized consent of a custodial parent or legal guardian; and (e) other administrative regulations as may be necessary to protect public health. This administrative regulation establishes the standards for tattooing[~~required by KRS 211.760(3)~~].

Section 1. Definitions. (1) "Antiseptic" means a substance applied to the skin that reduces the number of microorganisms.

(2) "Autoclave" means equipment sold as sterilizing equipment for medical instruments and employs steam under pressure to sterilize.

(3) "Blood" ~~is defined by 29 C.F.R. 1910.1030[means human blood or any human body fluid or tissue that is visibly contaminated with blood].~~

(4) "Bloodborne pathogens" is defined by 29 C.F.R. 1910.1030[~~pathogen(s)" means the pathogenic microorganisms that are present in human blood that can cause disease in humans such as Hepatitis B (HBV), Hepatitis C (HCV), and human immunodeficiency virus (HIV).~~]

(5) "Contaminated" ~~is defined by 29 C.F.R. 1910.1030[means the presence of or reasonably expected presence of blood or other potentially infectious material in or on the surface of an item].~~

(6) "Contaminated sharps" ~~is defined by 29 C.F.R. 1910.1030[means any contaminated object that can penetrate the skin such as tattoo needles and razors].~~

(7) "Contaminated waste" means any material to be disposed of that has been soiled by blood or other potentially-infectious material in the process of tattooing.

(8) "Disinfectant" means a chemical agent that destroys disease-causing pathogens or other harmful microorganisms but does not ordinarily kill bacterial spores. Approved disinfectants are:

(a) List D: the EPA's Registered Antimicrobial Products Effective Against Human HIV-1 and Hepatitis B Virus; and

(b) List E: the EPA's Registered Antimicrobial Products Effective Against Mycobacterium tuberculosis, Human HIV-1 and Hepatitis B Virus.

(9) "Hand washing" means the following process:

(a) Wetting hands and forearms with warm running water between[;] 101 degrees Fahrenheit and[-] 120 degrees Fahrenheit[°F];

(b) Applying liquid~~[antibacterial or antimicrobial]~~ soap and thoroughly distributing over hands and forearms;

(c) Rubbing hands vigorously for twenty (20) seconds, covering all surfaces of the hands, forearms and fingers, paying special attention to the thumbs, backs of fingers, backs of the hands, and between the fingers;

(d) Rinsing hands and forearms thoroughly to remove residual soap; and

(e) Drying hands and forearms with paper towels dispensed from sanitary dispensers.

~~(10)[(9) "Health care professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky.~~

~~(10) "High-level disinfection" means the elimination of pathogenic microorganisms except for bacterial spores from inanimate objects, rendering them safe to handle.~~

~~(11)] "Instrument" means any tattooing implement that comes into contact with blood or non-intact skin such as needles, needle bars, needle tubes, or other implements used to insert pigment.~~

~~(11)[(12)] "Minor" is defined at KRS 387.010(1).~~

~~(12)[(13)] "Mobile studio" means a tattooing studio that is designed to be readily movable.~~

~~(13)[(14)] "Nonintact skin" means human skin that has an open wound from a cut, burn, rash, infection, or any other condition that has altered the skin.~~

~~(14)[(15)] "Purchased presterilized" means procedure set-ups that are sold individually packaged, processed, and marked with a sterilization lot number, and expiration date, to render them free of all microorganisms.~~

~~(15)[(16) "Registrant" means the individual duly authorized to engage in the business of tattooing.~~

~~(17)] "Registration" means the issuance of a document by the local health department to a tattoo artist authorizing the tattoo artist to engage in the business of tattooing.~~

~~(16) "Service animal" is defined by 28 C.F.R. 36.104.~~

~~(17)[(18) "Regulated waste" means waste as defined by the Department of Labor, OSHA, Bloodborne Pathogens Regulation, 29 C.F.R. 1910.1030 and incorporated by reference in 803 KAR 2:320.~~

~~(19) "Sanitize" means a bactericidal treatment to clean surfaces of equipment, approved by the local health department for being effective in destroying microorganisms, including pathogens, to a safe level.~~

~~(20)] "Sterilization" means the use of an autoclave to kill microbial life by holding instruments and equipment under steam pressure for a minimum of fifteen (15) minutes, at fifteen (15) pounds of pressure per square inch (PSI), at a temperature of 250 degrees Fahrenheit [~~°F~~] or 121 degrees Celsius [~~°C~~].~~

~~(18)[(21)] "Studio" is a facility as defined by KRS 211.760(1)(b).~~

~~(19)[(22)] "Studio certification" means the issuance of a document by the local health department to a studio owner certifying that studio, after inspection, was in compliance with the applicable provisions of this administrative regulation.~~

~~(20)[(23)] "Studio owner" means:~~

~~(a) An owner of a facility where tattooing is conducted; or~~

~~(b) A sole proprietor who performs tattooing; or~~

~~(c) A person who employs tattoo artists.~~

~~(21)[(24)] "Tattoo artist" means a person registered by the local health department to engage in tattooing.~~

~~(22) "Tattooing" is defined by KRS 211.760(1)(c).~~

~~(23)[(25)] "Temporary permit[studio]" means a permit to operate at a fixed location for[facility~~

~~setup that operates]~~ no more than seven (7) calendar days, is nontransferable, and cannot be renewed for~~[in a]~~ ninety (90) days after the expiration~~[day period]~~.

Section 2. Registration of Tattoo Artist. (1) ~~[An applicant shall be at least eighteen (18) years of age at the time of application.~~

~~(2) Pursuant to KRS 211.760(2),]~~ A person shall not act as or engage in the business of tattooing unless registered with the local health department in the district or county where the person is to tattoo.

(2) All tattooing shall be under the auspices of a Kentucky certified studio.

(3) No tattoo artist shall engage in the act of tattooing unless that person has proof of completion of a bloodborne pathogen training program compliant with 29 C.F.R. 1910.1030.

(4) The artist shall maintain documentation of completion of bloodborne pathogen training at the studio.

(5) An applicant for registration as a tattoo artist shall be at least eighteen (18) years of age at the time of application.

~~(6)[(3)] An applicant for registration[for tattoo artists] shall submit[a completed Application Form, DFS-303, incorporated by reference,] to the local [or district] health department in the district or county where the applicant intends to perform tattooing:~~

(a) A completed DFS-303 Application for Certification/Registration, incorporated by reference;

(b) Payment of \$100 registration fee; and

(c) Proof of completion of approved bloodborne pathogen training as required by subsection (3) of this section.

~~(7)[(4) Pursuant to KRS 211.760(2), payment of the registration fee shall be made to the local or district health department where the applicant intends to tattoo.~~

~~(5)] The tattoo artist registration shall be:~~

(a) Mailed to the owner of the Kentucky[-]certified studio listed on the application for registration;

(b) Prominently displayed to the public in the workstation and;

(c) Nontransferable from one (1) person to another, or from one (1) district or county to another.

~~(8)[(6) All tattooing shall be under the auspices of a Kentucky-certified studio.~~

~~(7) A registrant shall post his registration document prominently at his workstation.~~

~~(8) A registration is nontransferable from one (1) person to another, or from one (1) district or county to another.~~

~~(9) Applicants for registration must be eighteen (18) years of age or older at the time of registration.~~

(10) Pursuant to KRS 211.760(2),] Registrations shall be valid for[expire] one (1) calendar year and expire on December 31st of each year.

(9) A late penalty fee of fifty (50) dollars shall be assessed on all tattoo artist certification renewal applications not received by January 30th or postmarked after January 31st each year[from the date of issuance].

Section 3. Studio Certification. (1) A person shall not engage in the business of tattooing unless the owner of the facility holds a studio certification issued by the local health department in the district or county where the person is to tattoo.

(2) A holder of a studio certification issued under this administrative regulation shall not allow persons to tattoo unless the individual is registered in accordance with Section 2 of this administrative regulation.

(3) Applications for studio certification shall be:

(a) On DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040;

(b) Submitted to the local health department in the district or county where the studio is located; and

(c) Accompanied by an annual inspection fee of:

1. \$400 for the studio with one (1) to four (4) work stations; and

2. An additional fifty (50) dollars for each additional work station over four (4).

(4) A studio certification shall not be issued or renewed unless the studio has been inspected and found to be in compliance with the provisions of this administrative regulation.

(5) The studio certification shall be:

~~(a) [(3) A studio certification shall be required for each district or county in which a registrant performs any activity regulated by this administrative regulation.~~

~~(4) The studio certification shall be] Prominently displayed to the public in the studio; and~~

~~(b) [-~~

~~(5) A studio certification is] Nontransferable from one (1) person to another, or from one (1) location to another.~~

~~(6) [A holder of a studio certification issued under this administrative regulation shall not allow persons to tattoo unless registered in accordance with Section 2 of this administrative regulation.~~

~~(7) Payment of an annual inspection fee of \$100 shall be made to the local health department in the district or county where the person is to tattoo.~~

~~(8) Applications for studio certification shall be submitted to the local health department on application form DFS-200, incorporated by reference.~~

~~(9) ] The studio certification shall expire December 31st each year.~~

(7) A late penalty fee of \$100 shall be assessed on all studio registration renewal applications not received by January 30<sup>th</sup> or postmarked after January 31st each year [one (1) year from the date of issuance].

Section 4. Studio [Facility] Requirements. (1) A studio [facility] shall:

(a) Be kept clean and in good repair;

(b) Be free of insect and rodent infestation;

(c) Store only items necessary to its operation and maintenance;

(d) Provide artificial light of at least twenty (20) foot-candles ~~[, measured at a height of thirty-six (36) inches from the floor];~~

(e) Be well ventilated;

(f) Not permit the presence of a pet or other animal in the studio, except for a service animal[:

~~1. A trained guide or assistance animal for the disabled; and~~

~~2. Fish in an aquarium in the waiting area];~~

(g) Not use a room otherwise used as living or sleeping quarters;

(h) Use a solid, self-closing door to separate living or sleeping quarters from the business operation;

~~(i) [Have an entrance allowing direct entry into the facility, except for a facility existing on the effective date of this administrative regulation which is exempt from this requirement;~~

~~(j) ] Have convenient, clean, and sanitary toilet and hand-washing facilities for the use of clientele with liquid soap, single-use paper towels from a sanitary dispenser or air dryer, covered waste receptacle, and self-closing door;~~

~~(j) [(k) ] Be organized to keep clean areas separate from contaminated areas;~~

- (k) ~~Have~~~~(l)~~ Use only a utility sink that shall only be used to:
1. ~~Wash~~~~[Clean]~~ contaminated instruments; and
  2. Empty mop water, without placing the mop bucket into the sink;
- ~~(l)~~~~(m)~~ Use, clean, and maintain equipment according to manufacturers' recommendations;
- ~~(m)~~~~(n)~~ Use an approved~~[a hard surface high-level EPA-registered]~~ disinfectant;
- ~~(n)~~~~(o)~~
1. ~~A solution of five and one-fourth (5.25) percent chlorine bleach, fifty (50) parts per million to 100 parts per million; and~~
  2. ~~A chlorine test kit to test concentration;~~
- ~~(o)~~ Have plumbing sized, installed, and maintained in accordance with the~~[Kentucky State Plumbing Code,]~~ 815 KAR Chapter 20;
- ~~(o)~~~~(p)~~ Have sufficient~~[an adequate]~~ potable water supply for the needs of the studio provided from a source constructed, maintained, and operated pursuant to the applicable requirements established in 401 KAR Chapter 8~~from:~~
1. ~~A public or municipal water district, if available; or~~
  2. ~~A private water source approved by the Cabinet for Natural Resources and Environmental Protection, until a public water supply becomes available]; and~~
- ~~(p)~~~~(q)~~ Dispose of sewage, including liquid waste, by connection to:
1. A public sewer system, if available; or
  2. A private sewer system designed, constructed, and operated pursuant to the requirements of 401 KAR Chapter 5 and 902 KAR Chapter 10~~[the Cabinet for Health Services or the Cabinet for Natural Resources, until a public sewer system becomes available].~~
- (2) A workstation shall:
- (a) Have nonporous~~[light-colored]~~, smooth, easy-to-clean floors, walls, and ceilings;
  - (b) Have surfaces, including counters, cabinets, chairs, and dispensers, composed of ~~[light-colored,]~~ smooth, nonporous material able to withstand repeated cleaning and disinfecting~~[, except for a facility existing on the effective date of this administrative regulation which is exempt from the color requirement];~~
  - (c) Be kept clean, organized and in good repair;
  - (d) 1. Have all product containers clearly labeled with common product name in English; and  
2. If filling a product container from a larger bulk container, the original container shall be retained on the studio premises;
  - (e) Have at least sixty (60) square feet of floor space with permanent walls a minimum of four (4) feet high~~[one-half (1/2) walls]~~ between workstations;
  - ~~(f)~~~~(g)~~ Have 100 foot-candles of light at the procedure level;
  - ~~(g)~~~~(h)~~ Have unimpeded access to a hand sink, without opening a door;
  - ~~(h)~~~~(i)~~ Have a sink for each artist with hot water between 101 and~~[at least]~~ 120 degrees Fahrenheit~~[°F]~~ and cold water less than 101 degrees Fahrenheit~~[°F]~~, delivered by a mixing faucet, operated by wrist, knee, or foot action;
    1. Each sink shall be supplied with:
      - a. Liquid soap; and
      - b. Single-use paper towels dispensed from a sanitary dispenser; and
    2. A hand sink shall not be used for any other purpose;  - ~~(i)~~~~(j)~~ Be designated as a tattoo workstation, and shall not be used for any other purpose;
  - ~~(j)~~~~(k)~~ Have double bagged~~[lined]~~ plastic or metal waste receptacles;
    1. With or without a lid; and
    2. If waste receptacle has a lid it shall be foot operated; and
  - ~~(k)~~~~(l)~~ Have a container for disposable sharps that:
    1. Is rigid, puncture proof, and leak proof on sides and bottom;

2. Is closeable and sealable; and
3. If sealed, is leak resistant and incapable of being opened without great difficulty.

Section 5. Cleaning and Sterilization. (1) A studio~~[facility]~~ may have a one (1) room or two (2) room cleaning and sterilization arrangement.

(a) A two (2) room arrangement shall have:

1. One (1) room for contaminated items, equipped with:

a. A utility sink with minimum dimensions of 18 in. x 18 in. x 12 in.;

b. A hand sink;

c.~~[;]~~ A presoak container;

d. An~~[;]~~ ultrasonic cleaning unit~~[;]~~ and

e. Autoclaving packaging materials; and

2. A second room for autoclave sterilization of instruments and equipment.

(b) A one (1) room cleaning and sterilization process shall be arranged to provide two (2) distinct areas.

1. Nonporous barriers may be utilized to delineate the two (2) distinct areas.

2.~~[The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment, or other items.]~~ The cleaning area shall be equipped in accordance with paragraph (a) subparagraph 1 of this section.

3. The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment or other items~~[with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit, and autoclaving packaging materials. Nonporous barriers may be utilized to delineate the two (2) distinct areas].~~

(2) All instruments shall be disposable or be made of surgical implant stainless steel and shall not have rubber gripping on the handles.

(3) Instruments shall be processed as follows:

(a) Soak contaminated reusable~~[used]~~ instruments in a covered container of cool water with or without detergent until ready to be cleaned and sterilized;

(b) Wash hands and forearms in accordance with Section 1(9) of this administrative regulation;

(c) Use disposable, single-use gloves, such as examination or surgical gloves;

(d)~~[(e)]~~ Prepare the ultrasonic cleaner according to manufacturer's instructions;

(e)~~[(e)]~~ Take instruments apart and rinse in warm water;

(f)~~[(e)]~~ Load the ultrasonic cleaner and process according to manufacturer's recommendations, disposing of the ultrasonic cleaner liquid after each use;

(g) Wash hands and forearms in accordance with Section 1(9) of this administrative regulation;

(h)~~[(f)]~~ Wearing examination gloves, remove instruments from the ultrasonic cleaner, rinse with clean water,~~[and dry with a clean, lint-free towel, or]~~ allow to air dry; and

(i)~~[(g)]~~ Store cleaned instruments in a labeled, covered, nonporous container until packaged for sterilization.

(4) Autoclave~~[Sterilization]~~ equipment. Equipment used to sterilize instruments shall meet the following requirements:

(a) The equipment was sold as sterilizing equipment for medical instruments; ~~[and]~~

(b) The equipment is used, cleaned, and maintained to manufacturer's instructions; and

(c) The equipment meets the minimum requirements for sterilization~~[in the definition of "sterilization"]~~.

(5)(a)~~[Needles or other]~~ Reusable instruments placed in contact with skin that is tattooed

shall be cleaned and sterilized;[-]

(b) Disinfection shall not be used in place of cleaning and sterilization; and[-]

(c) Liquid sterilants shall not be used for sterilization of reusable instruments.

(6) Instrument sterilization. Instruments that touch nonintact skin, shall be sterilized as follows:

(a) Wash hands and forearms in accordance with Section 1(9) of this administrative regulation;

(b) Use clean disposable, single-use surgical or examination gloves;

(c)~~(b)~~ Package cleaned instruments individually in:

1.~~[paper or plastic, or] Paper-and-plastic peel-pack with color change indicator~~, ~~peel-pack(s) with color (heat) change indicator(s)~~; or

2. Package as set-ups with color change indicator;

(d)~~(c)~~ Label with content, date, lot number, and preparer's initials;

(e)~~(d)~~ Load the sterilizer and process according to the manufacturer's directions;

(f)~~(e)~~ Remove the items from autoclave only when completely~~cool and~~ dry and cool;

(g)~~(f)~~ Store the items in a nonporous, clean, dry, labeled container, cabinet or other place that is protected from dust and contamination; and

(h)1.~~(g)~~ Sterilized instruments shall be resterilized at intervals of no more than six (6) months from the date of the last sterilization; and

2. New packaging shall be used when instruments are resterilized.

(7) Sterilization equipment monitoring.

(a) Sterilization equipment shall be tested;

1. During the initial installation;

2.~~(1)~~ After any major repair;[-] and

3. At least monthly by using a commercial biological monitoring system; and

(b) Biological indicator test results for each sterilization unit used in the studio shall be kept on site, and made available for inspection at time of inspection; and

(c) Sterilization monitoring shall be noted on sterilizer log.

(8) Sterilizer recordkeeping. A sterilizer log system shall be maintained for each sterilizer in the studio. For each sterilization cycle the following information shall be documented:

(a) Date of load;

(b) Lot number;

(c) Preparer's~~(Practitioner's)~~ name;

(d) The general contents of the load;

(e) The exposure time and temperature or the sterilizer recording chart or tape; and

(f) The results of the chemical indicator.

Section 6. Studio Owner Responsibilities. The owner of a certified studio shall:

(1) Exclude, and report to the local or district health department, any tattoo artist who is:

(a)~~(1)~~ Infected with a disease in a communicable form that can be transmitted by blood;

(b)~~(2)~~ A carrier of organisms that cause disease;

(c)~~(3)~~ Infected with a boil, an infected wound;[-] or

(d) Diagnosed with an acute respiratory infection;

(2) Report any accident involving exposure to body fluids to the local or district health department;

(3) Receive, review and distribute tattoo artist registrations issued for employees of the certified studio. If the artist is no longer employed by the certified studio, the registration shall be returned to the district or local health department where the certified studio is located;

(4)~~(3)~~ Continuously Maintain a record of all persons performing any activity within the stu-

dio that is regulated by the cabinet. The record shall include at a minimum the following information:

- (a) Full name;
- (b) Date of birth;
- (c) Home address;
- (d) ~~Home~~ Phone number;
- (e) Email address if available;
- (f) Photograph of tattoo artist; and
- (g) Complete description of all tattooing procedures performed by the tattoo artist;

~~(5)(4)~~ Maintain a current copy of this administrative regulation at the studio for use by tattoo artists;

~~(6)(5)~~ Maintain a minimum of twenty-four (24) sets of sterilized needles and tubes for each artist;

~~(7)(6)~~ Not reesterilize or reuse single-use, disposable components; and

~~(8)(7)~~ If presterilized, disposable instruments are utilized, the following records shall be maintained ~~[in accordance with Section 8(6) of this administrative regulation]~~ and ~~[shall be]~~ made available at all times to the local health department:

- (a) An accurate inventory of all purchased presterilized instruments by name with the date purchased and the quantity on hand; and
- (b) Invoices for the purchase of all purchased presterilized instruments.

Section 7. Tattooing of Minors~~[Client Restrictions]~~. (1) No person shall perform any tattoo procedure on a minor without parental consent.

(2) Minors shall be at least 16 years old with custodial parent or legal guardian consent prior to tattooing.

(3) Consent shall be provided by:

1. A written notarized statement that contains ~~[consent, with]~~ an official seal or assigned identification of the notary; or

2. The custodial parent or legal guardian present during the tattoo procedure.

(4) The notarized statement shall contain:

(a) The printed name of the custodial parent or legal guardian;

(b) The government issued photo identification number of the custodial parent or legal guardian;

(c) The address and phone number of the custodial parent or legal guardian;

(d) The printed name of the minor child;

(e) The date of birth of the minor child;

(f) The government issued photo identification number of the minor child, if applicable;

(g) A statement that the custodial parent or legal guardian is fully aware of the tattoo procedure and gives their consent for the procedure to be performed;

(h) The signature of the custodial parent or legal guardian; and

(i) The date of the signature of the custodial parent or legal guardian.

(5) The custodial parent or legal guardian present during the tattoo procedure shall provide a government issued photo identification.

(6) The custodial parent or legal guardian, and minor client shall complete the attestation requirements of Section 8(3)(h) of this administrative regulation ~~[and with the signature of a custodial parent or legal guardian, shall be obtained for all minors prior to application of a tattoo.~~

~~(2) Tattooing shall not be applied on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written~~



~~clearance by a medical physician licensed by the Kentucky Board of Medical Licensure].~~

Section 8. Client Information and Records. (1) Before receiving a tattoo, the client shall be provided written information that tattooing poses a risk of infection, that tattooing is permanent and that removal of a tattoo may leave scars.

(2) Before the application of a tattoo, the client shall be provided ~~[written and]~~ verbal after-care instructions that includes the following information:

- (a) Information on the care of the site of the tattoo;
- (b) Instructions on possible side effects;
- (c) Information on any restrictions;
- (d) Information on signs and symptoms of infection; and
- (e) Instructions to consult a physician if signs and symptoms of infection such as fever, excessive swelling, excessive redness, or drainage occur.

(3) A record of all clients who have received any tattoos shall be kept by the studio owner. The record shall include the following information:

- (a) Studio name and registration number;
- (b) The date the procedure was performed;
- (c) Client's name, date of birth, address, and telephone number;
- (d) 1. Copy of client's government issued photo ID, if applicable; or  
2. Copy of custodial parent or legal guardian's government issued photo ID;
- (e) Name of the tattoo artist who performed the procedure~~[procedure(s)]~~;
- (f) The type, location and description of the procedure;~~[and]~~
- (g) The lot number of instruments and inks used; and
- (h) Client's attestation~~[attestament]~~ to the fact that the client is:
  1. Not intoxicated or under the influence of drugs or alcohol;
  2. Not pregnant; and
  3. Not currently taking medications such as anticoagulants that thin the blood or interfere with blood clotting~~[with signature]~~.

(4) Records of each client shall be typed or printed in ink prior to any procedure being performed.

(5)~~(a)~~ All records shall be maintained ~~[in a bound log]~~ for two (2) ~~[five (5)]~~ years.

~~(b)[The current calendar year]~~ Client, consent and other required records shall be kept at the certified studio and shall be made readily available to inspectors. ~~[All records for the previous four (4) years may be maintained off site and shall be made readily available upon request of the cabinet, district or local health department.]~~

Section 9. Disposal of Contaminated Wastes. All wastes produced during the process of tattooing shall be separated for disposal into two (2)~~[three (3)]~~ classifications as follows:

(1) Contaminated sharps shall be disposed of by using a licensed medical waste disposal company.

~~(2)[Regulated waste, as defined by the Department of Labor, Occupational Safety and Health Administration, shall be disposed of in accordance with the bloodborne pathogens regulation 19 C.F.R. 1910.1030 as adopted in Kentucky by 803 KAR 2:320.~~

~~(3)] Contaminated waste[, other than contaminated sharps and regulated waste,] shall be sprayed with an approved disinfectant~~[a dilution of five and one fourth (5.25) chlorine bleach, with a range of fifty (50) parts per million to 100 parts per million]~~, double bagged, securely tied and disposed of daily in a trash container that prevents unauthorized access. This material shall be disposed of in an approved site by a general trash hauler.~~

Section 10. Standard Operating Procedures for Tattooing. (1) Tattooing shall not be applied on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure.

(2) Tattooing of scarred skin is prohibited.

(3) The tattoo artist shall follow the procedures listed in this section in preparation for tattooing:

(a)[(4)] The tattoo artist and the client shall not eat, drink, use tobacco products, an electronic cigarette, or other vapor producing product[smoke] in the workstation.

(b)[(2)] The tattoo artist shall wash hands and forearms according to Section 1(9)[(8)] of this administrative regulation prior to and after every procedure.

(c)[(3)] The tattoo artist shall wear new clean disposable examination gloves for every client. If a glove is pierced, torn, contaminated in any way, or if there is an interruption in the application of the tattoo, both gloves shall be removed immediately, and discarded, hands and forearms washed in accordance with Section 1(9) of this administrative regulation and new, clean examination gloves used.

(d)[(4)] The tattoo artist shall use a new [or] disposable lap cloth, drape, or apron for each client. All lap cloths, drapes and aprons shall be stored in a closed cabinet or container until used.

(e)[(5)] The tattoo artist shall wear clean clothing. [Shirts shall have short sleeves, pants shall be to the ankle in length, and feet shall be completely enclosed in shoes.]

(4)[(6)] All instruments, equipment and items to be used in the procedure shall be placed on a disposable, plastic backed towel.

(5)[(7)] All inks, dyes, and pigments used in a procedure shall be:

(a) Nontoxic;

(b) Dispensed from containers in a manner to prevent contamination of the unused portion in the supply bottle; and

(c)[then] Discarded:

1. After the procedure; or

2. When the original container label becomes unreadable.

(6) Inks, dyes, and pigments transferred from bulk containers must be labeled with:

(a) Manufacturer name;

(b) Lot number; and

(c) A statement of nontoxicity.

(7) All devices used to apply inks, dyes, or pigments shall be designed to prevent backflow of inks or pigments into the machine.

(8) If a workstation rinse cup is used, [alone or in an ultrasonic cleaner,] a fresh cup shall be used for each client[,], and discarded immediately upon completion of the procedure.

(9) All single-use ointment tubes, applicators and supplies placed on the plastic backed towel shall be discarded immediately after use.

(10)[Inks, dyes or pigments that are prepared by the tattoo artist shall be nontoxic.

(11)[(12)] Tattoo needles shall be used once and discarded. [If the needlebar is reused, the needlebar shall be cleaned and sterilized before the needles are removed.]

(11)[(12)] If the tattoo artist uses any reusable components, autoclave[sterilization] equipment[meeting the requirements in the definition of "sterilization"] shall be required.

(12)[(13)] All devices used to apply pigments shall be designed to prevent backflow of pigments into the machine.

(14) Position] The sharps container and waste receptacle shall be positioned to be within easy reach and in a manner to prevent contamination.

Section 11. Application of the Tattoo. The tattoo artist shall use the procedure in this section when applying a tattoo:

(1) Disinfect the chair or table and tray~~[procedure area and lay out plastic film or a clean, disposable plastic backed towel]~~.

~~(2) Wash hands and forearms in accordance with Section 1(8) of this administrative regulation.~~

~~(3) Position the client [comfortably].~~

~~(3)(4) Arrange all instruments and supplies to be used in the procedure on plastic film or on a clean, disposable plastic backed towel within easy reach.~~

~~(4)(5) Wash hands and forearms in accordance with Section 1(9)(8) of this administrative regulation, and use new, clean examination gloves.~~

~~(5)(6) Gently clean the client's skin with soap and water and apply an antiseptic that is appropriate for the area where the tattoo is to be applied. If shaving is necessary, use a new~~[anew]~~, single-use disposable razor.~~

~~(6)(7) Acetate or other reusable stencils shall not be used. Place the design on the skin by one (1) of the following methods:~~

~~(a) Free-hand drawing using a new disposable marker; or~~

~~(b) Apply a single-use hectographic or tissue stencil using an~~[antimicrobial soap or other]~~ approved product dispensed from a container in a manner that does not contaminate the unused portion.~~

~~(7)(8) Remove gloves, wash hands in accordance with Section 1(9)(8) of this administrative regulation, and use new clean examination gloves.~~

~~(8)(9) Open sterile needles in front of the client and place them into the tattoo machine without touching the end of the needles.~~

~~(9)(10) Apply the tattoo.~~

~~(10)(11) Apply a thin layer of suitable~~[antibiotic]~~ cream using a swab or cotton ball and if appropriate, cover the area with a suitable nonstick dressing that is held in place with suitable skin tape. Plastic film shall not be used.~~

~~(11)(12) When the tattooing is complete, the tattoo artist shall answer any questions and provide client with~~[written]~~ instructions regarding the tattoo and aftercare.~~

~~(12)(13) Immediately after the client leaves the workstation, the tattoo artist shall break down the workstation, properly dispose of any sharps, soak any reusable instruments for later cleaning, and clean and disinfect any surface that may have become contaminated.~~

Section 12. Standard Operating Procedures for a Mobile Studio. (1) Applications for mobile studio certification shall be:

(a) On DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040;

(b) Submitted to the local health department in the district or county where the mobile studio is located; and

(c) Accompanied by a fee of:

1. \$400 for the studio with one (1) to four (4) work stations; and

2. An additional fifty (50) dollars each additional work station over four (4)~~[The mobile studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees].~~

(2) If not currently registered in accordance with Section 2(6) of this administrative regulation, the tattoo artist shall be registered with the local health department in each district or county where the mobile studio is operated, and pay the appropriate fees.

(3) The mobile studio shall be used exclusively for performing tattooing. Habitation, cooking, pets and animals except service animals shall not be allowed in the mobile studio.

(4) The mobile studio shall:

(a) Meet the sterilization, operating, clientele requirements, and tattoo performance procedures[same requirements] as a stationary studio; and

(b) Be inspected by the local health department prior to operation.[(3) All sewage shall be stored in a storage tank with a capacity at least 100 percent greater than the capacity of the on-board potable water, and shall be discharged into a public sewage system.]

(5)[(4)] Any on-board restroom shall be supplied with hot running water at least 120 degrees Fahrenheit[°F] and cold running water less than 101 degrees Fahrenheit[°F as in subsection (6) of this section] and shall be supplied with toilet paper, liquid[antibacterial or antimicrobial] soap, [and] single-use paper towels from a sanitary dispenser, covered waste receptacle, and a self-closing door.

(6)[(5)] If the vehicle lacks an on-board restroom, the owner shall not operate the studio unless it is within 200 feet of a public restroom with hand-washing facilities.

(7)[(6)] All plumbing shall comply with the requirements of the [State Plumbing Code,] 815 KAR Chapter 20.

(8)(a)[(7)] Each mobile studio shall have a potable water system under pressure.

(b) The system shall be of sufficient capability to furnish enough hot and cold water for hand washing, instrument cleaning, and sanitization pursuant to the requirements of this administrative regulation.

(c) The water inlet shall be:

1. Located in a position that it will not be contaminated by waste discharge, road dust, oil, or grease; and

2. [and it shall be] Provided with a transition connection of a size of or type that will prevent its use for any other service.

(d) All water distribution pipes or tubing shall be constructed and installed in accordance with [the State Plumbing Code,] 815 KAR Chapter 20.

(e) Hoses, if used, shall bear the National Sanitation Foundation potable water (NSF-pw) mark and be fitted[be food grade,] with a backflow prevention device.

(9)(a)[(8)] Each mobile studio shall have a permanently[-]installed retention tank that is at least fifty (50)[400] percent larger than the potable water supply tank.

(b) Wastewater shall be discharged into a public sewage system.

(c) Liquid wastewater shall not be discharged from the retention tank if the mobile studio is in motion.

(d) All connections on the vehicle for servicing the mobile studio waste disposal shall be of a different size or type than those used for supplying potable water to the mobile studio.

(e) The wastewater connection shall be located below the water connection to preclude contamination of the potable water system.[(9) The vehicle shall be used exclusively for performing tattooing. Habitation, cooking, pets and animals shall not be allowed in the mobile studio.]

Section 13. Standard Operating Procedures for a Temporary Permit[Studio]. (1) The event organizer or studio owner for the event shall submit to the local health department in the district or county where the temporary studio is to be located:

(a) A DFS-200 Application for Permit/License, incorporated by reference in 902 KAR 10:040, accompanied by a \$250 registration fee for each workstation;

(b) A layout of the event floor showing where the tattoo artists will be tattooing;

(c) A list of all tattoo artists participating in the event that includes:

1. Name of tattoo artist;

- 2. Artist date of birth;
- 3. Home address;
- 4. Telephone number;
- 5. Email address;
- 6. Proof of artist completion of blood-borne pathogen training;
- 7. Studio name;
- 8. Studio address;
- 9. Studio owner name;
- 10. Description of procedures to be performed at the event; and
- (d) A copy of the client consent form to be used during the event.

(2) The event organizer or studio owner for the event shall:

(a) Be responsible for ensuring that the event is run in a manner that is safe for the tattoo artists and the general public;

(b) Provide a separate cleaning and sterilization room as a backup, unless only pre-sterilized disposables are used for the event;

(c) Provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event;

(d) Arrange for pick-up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation; and

(e) Ensure the cleaning and sterilization room, if used, is disinfected at the close of the event.

(3) Prior to the event, [The event organizer or studio owner shall provide a list of all tattoo artists participating in the event to the local health department in the district or county where the event is being held that includes the following information for each participating tattoo artist:

- (a) Name of exhibitor/tattoo artist;
- (b) Date of birth;
- (c) Home address;
- (d) Business name;
- (e) Business address;
- (f) Home and work telephone numbers;
- (g) Email address if available;
- (h) Description of procedures to be performed at the event; and
- (i) Copy of current tattoo artist's registration.

(2) The event coordinator or studio owner shall provide a layout of the event floor to the local health department in the district or county where the event is being held showing where the tattoo artists will be tattooing.

(3) Each participant who performs tattooing shall bring enough presterilized instruments and supplies to last for the whole event.

(4) The event coordinator or studio owner shall provide a separate cleaning and sterilization room as a back up for use by participants who have used all of the presterilized instruments and supplies that were brought to the event. If used, the cleaning and sterilization room shall be disinfected at the close of the event. Presterilized disposable instruments and equipment shall not be reused.

(5) The event coordinator or studio owner shall provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event.

(6) The event coordinator or studio owner shall provide for pick-up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation.

(7) Temporary studios located at locations such as fairs, festivals, or flea markets, shall

~~comply with all requirements for a certified studio in accordance with Sections 1 through 11 of this administrative regulation in their entirety.]~~

~~(8)] the tattoo artist participating in the event[and the studio] shall:~~

~~(a) Be registered in accordance of Section 2 of this administrative regulation with the local health department in the[each] district or county where[in which] the temporary studio is operated;~~

~~(b) Submit a \$100 registration fee; and~~

~~(c)1. Ensure an adequate supply of presterilized instruments and supplies are available to last the length of the event; or~~

~~2. Provide certification of an autoclave negative spore test completed within thirty (30) days prior to the event if tattooing with reusable instruments.~~

~~(4)[, and pay the appropriate fees.~~

~~—(9)] The temporary workstation shall meet the following minimum conditions:~~

~~(a) Be at least 6[40] ft. x 10 ft., and be constructed in a manner to separate the tattoo artist from the public in such a way as to protect the procedure area from contamination, and to prevent accidental exposure of the public to potentially-infectious materials created during tattooing;~~

~~(b)1. Have a floor and sides that are smooth, nonporous and easy to clean; or~~

~~2. Be covered in plastic if the floor and sides are not smooth, nonporous and easy to clean.~~

~~(c) Have at least 100 foot-candles of light available at the procedure level[where the tattoo, body piercing or the application of permanent makeup is conducted];~~

~~(d) Be equipped with a hand-wash facility that[. A hand-wash facility at the minimum] shall be:~~

~~1. A portable handwashing station; or~~

~~2. A minimum of a one (1) gallon container with a lever-type spigot, filled with warm potable water that:~~

~~a. Is placed at least thirty (30) inches off the floor to allow for easy use;~~

~~b. Supplied with a bucket to catch the wastewater; and~~

~~c. Has a minimum reserve of five (5) gallons warm potable water available.~~

~~3. Supplied with[consist of] liquid[antibacterial or antimicrobial] soap; and~~

~~4.[,] Single-use paper towels from a sanitary dispenser.[, and an insulated five (5) gallon container with a lever-type spigot, filled with warm potable water 101 - 120°F, and a bucket to catch the wastewater. The water container shall be placed at least thirty (30) inches off the floor to allow for easy use, and shall be filled regularly to ensure an adequate supply of warm water for hand washing;]~~

~~(e) Wastewater shall be disposed of into a public sewerage system, if available. If a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated pursuant to the requirements of the [Cabinet for Natural Resources and Environmental Protection administrative regulations] 401 KAR Chapter 5 and [the Cabinet for Health Services administrative regulations] 902 KAR Chapter 10[; and~~

~~(f) Shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment, pigment supply bottles, and any other item that must be protected to prevent cross-contamination].~~

Section 14. Inspection of Studios. (1) At least twice per year, the cabinet,~~[or the]~~ local or district health department shall inspect each studio and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this administrative regulation.

(2)(a) The cabinet,~~[or the]~~ local or district health department inspector shall record the inspection findings~~[in writing]~~ on an inspection report form DFS-342, incorporated by refer-

ence~~[and which shall constitute a written notice]~~.

(b) The inspection report form shall:

1. Summarize the requirements of this administrative regulation; and~~[shall]~~

2. Set forth a weighted point value for each requirement.

(3) The rating score of the studio shall be the total of the weighted point value for all violations, subtracted from 100.

(4) The inspector shall provide the original~~[of the]~~ inspection report to the certificate holder or his designee. The findings shall:

(a) Set forth the specific violations if found;

(b) Establish a~~[specific and reasonable]~~ period of time for the correction of the violations specified, pursuant to the following provisions:

1. If the rating score of the studio is eighty-five (85) or more, all violations of one (1) and two (2) point weighted items shall be corrected~~[as soon as possible and]~~ before the next routine inspection.

2. If the rating score of the studio is at least seventy (70) but not more than eighty-four (84), all violations of one (1) and two (2) point weighted items shall be corrected ~~[as soon as possible and]~~ within a period not to exceed thirty (30) days.

3. Regardless of the rating score of the studio, all violations of three (3) or four (4) point weighted items shall be corrected within ~~[a time specified by the cabinet and within]~~ ten (10) days.

4. If the rating score of the studio is less than seventy (70), the studio shall be issued a notice of intent to suspend the studio certification. The certification shall be suspended within ten (10) days after receipt of the notice unless a written request to an administrative conference is filed with the local or district health department within the ten (10) day period.

(5)~~[(3)]~~ Notices provided for under this administrative regulation shall be deemed to have been properly served if the original of the inspection report form or other notice has been delivered personally to the certificate holder or person in charge, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of the certificate holder.

(6)~~[(4)]~~ Failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in suspension or revocation of the certificate or the individual's registration.

(7)~~[(5)]~~ Temporary and mobile studios shall correct any violative conditions within twenty-four (24) hours.

Section 15. Suspension of Studio Certificates or Individual's Registration. (1) The studio certificate or the individual's registration shall be suspended immediately upon notice to the holder if:

(a) The cabinet,~~[or the]~~ local or district health department has reason to believe that an imminent public health hazard exists;

(b)~~[-, if]~~ The studio certificate holder or registered individual has interfered with the cabinet,~~[or the]~~ local or district health department in the performance of its duties; or

(c)~~[if]~~ An inspection of a studio reveals a rating score of less than sixty (60).

(2)~~[-, the certificate or the individual's registration shall be suspended immediately upon notice to the holder. If this occurs,]~~ The studio certificate holder or individual registration holder whose certificate or registration has been suspended may request an administrative conference in accordance with 902 KAR 1:400~~[Section 19(2)]~~ of this administrative regulation. The conference shall be granted as soon as practical and before ten (10) days.

~~(2) In all other instances of a violation of the provisions of this administrative regulation, the~~

~~cabinet or the local or district health department shall serve on the certificate holder or registered individual a written notice specifying the violation and shall afford the certificate holder or registered individual a reasonable opportunity for correction].~~

(3) The cabinet, ~~or the~~ local or district health department shall notify, in writing, the studio certificate holder or registered individual who fails to comply with a written notice issued under the provisions of this section, that the studio certificate or individual's registration shall be suspended at the end of ten (10) days following service of this notice unless a request for an administrative conference is requested.

~~(4)[Section 16. Reinstatement of Suspended Certificates or an Individual's Registration.] A person whose studio certificate or individual registration has been suspended may, at any time, make application for [a reinspection for the purpose of] reinstatement of the certification or registration in accordance with 902 KAR 1:400 Section 2 [The application for reinstatement shall be submitted on Form DFS-215, provided by the cabinet. Within ten (10) days following receipt of an Application for Reinstatement, the cabinet or the local or district health department shall make a reinspection. If the applicant is found to comply with the requirements of this administrative regulation, the certificate or individual's registration shall be reinstated].~~

Section 16.~~[17.]~~ Revocation of a Studio Certificate or an Individual's Registration. (1) For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with agents of the cabinet, ~~or the~~ local or district health department in the performance of its duties, a studio certificate or an individual's registration may be permanently revoked.

(2) Prior to this action, the cabinet, ~~or the~~ local or district health department shall notify the studio certificate holder or registered individual, in writing, stating the reasons for which the studio certification or individual registration is subject to revocation and advising that the studio certification or individual registration shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative conference is filed with the cabinet by the certification or registration holder within the ten (10) day period.

(3) A studio certification or individual registration may be suspended for cause pending its revocation or an administrative conference relative to the revocation.

Section 17.~~[18.]~~ Appeals. (1) A studio certificate or individual registration holder or an applicant aggrieved by a decision of the cabinet, ~~or~~ local or district health department may request ~~either~~ an administrative hearing in accordance with 902 KAR 1:400 ~~conference or an administrative hearing. The request shall be submitted within ten (10) days of receipt of a written notice of:~~

~~(a) A violation;~~

~~(b) Suspension or revocation of a certificate or individual's registration;~~

~~(c) Denial to renew a certificate or individual's registration; or~~

~~(d) Denial of an initial application for a certificate or individual's registration.~~

~~(2) Administrative conference. An administrative conference shall be conducted in accordance with 902 KAR 1:400, Administrative hearings, with the following exceptions:~~

~~(a) The administrative conference shall be less formal than an administrative hearing;~~

~~(b) The matter at issue shall be discussed before a representative of the Department for Public Health or the local or district health department; and~~

~~(c) Participants in the discussion shall be:~~

~~1. An agent of the cabinet or the local or district health department; and~~

~~2. The certificate holder, individual registered, or the applicant;~~

~~(d) A request for a conference shall be:~~



1. In writing; and
  2. Submitted or addressed to the local or district health department that issued or gave notice of the violation, suspension, or revocation; and
- (e) A certificate or registration holder or an applicant who does not agree with final ruling of the conference report issued by the local or district health department may appeal by requesting an administrative hearing.
- (3) Administrative hearing.
  - (a) Conduct of the administrative hearing shall be pursuant to 902 KAR 1:400, Administrative hearings and KRS Chapter 13B; and
  - (b) A request for an administrative hearing shall be:
    1. In writing;
    2. Submitted or addressed to the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; and
    3. Accompanied by a copy of the notice of violation, notice to suspend or revoke, letter denying an application, or the conference hearing report].

Section ~~18~~[19.] Incorporation by Reference. (1) The following material is incorporated by reference:

- (a)[~~DFS-200, Application for Studio Certification (Rev. 7-01);~~
- (b)] DFS-303, Application for Certification/Registration To: (Rev. ~~2/19~~[7-03]); and
- (b)[(e)] DFS-342, Tattoo and Body Piercing[,] Studio Inspection Report (Rev. ~~2/19~~[6-03]);
- (d) ~~DFS-214, Enforcement Notice (Rev. 8-96);~~
- (e) ~~DFS-212, Request for Conference (Rev. 10-96);~~
- (f) ~~DFS-213, Notice of Conference (Rev. 8-96); and~~
- (g) ~~DFS-215, Application for Reinstatement (Rev. 2-95)].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

JEFFREY D. HOWARD, JR., M.D., Commissioner  
ADAM M. MEIER, Secretary

APPROVED BY AGENCY: April 8, 2019

FILED WITH LRC: April 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2019, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 2019, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legisla-

tive and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for the: registration and certification process for a tattoo studio; registration process for an individual performing tattooing; studio owners responsibilities; studio and workstation design, and plumbing requirements for the studio; sanitation of the studio and sterilization of tattooing equipment; tattooing procedures, including the requirements for tattooing a minor; registration and operating procedures for a mobile or temporary tattoo studio; studio inspection process; and opportunity for an administrative hearing should a studio certificate or individual registration be subject to suspension or revocation.

(b) The necessity of this administrative regulation: The cabinet is authorized to promulgate administrative regulations regarding the health and cleanliness of places of business for tattooing and body piercing; the sterilization of equipment for tattooing and body piercing; procedures that will prevent the spread of disease or infection during a tattoo or body piercing procedure; procedures for performing tattooing or body piercing on minors with parental consent; and any other regulation that may be necessary to protect the public and properly administer the program requirements. This administrative regulation establishes the requirements required by KRS 211.760.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.760 requires the registration of nonmedical personnel who engage in the business of tattooing or body piercing, or both. This administrative regulation outlines the registration process for tattoo studios and for individuals who engage in the act of tattooing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for operating a tattoo studio.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment amends several defined terms for clarity, and removes terms not used in the body of the regulation; adds the requirement that an individual registering as a tattoo artist complete blood-borne pathogen training; outlines the studio registration process for a permanent studio, a mobile studio and a temporary studio; updates the disinfection and equipment sterilization process; and further clarifies requirements for a notarized statement when a minor is seeking a tattoo without a parent or legal guardian present. The fees associated with operating a tattoo studio, and the individual registration have been added to this administrative regulation. The local health department will need to be notified should there be an incident or accident that results in exposure to blood or body fluid.

(b) The necessity of the amendment to this administrative regulation: House Bill 327, enacted during the 2018 legislative session, amended KRS 211.760 by removing the registration fee. This amendment is necessary to add the fee structure for tattoo studio and tattoo artist registration to this administrative regulation. This amendment also includes a late payment penalty fee for both the studio and individual registration should the registration not be renewed by the expiration date or postmarked beyond thirty (30) days after the expiration date. Completion of a bloodborne pathogen training is an industry standard for any individual who is

employed in an occupation where contact with blood or body fluids is likely. Because the act of tattooing poses a risk of contact to blood or body fluids this training is necessary to protect the individual performing the tattooing and the public. Providing further details to be contained in the notarized statement of parental consent allowed by statute helps to ensure the parent or legal guardian is fully aware of, and gives consent for, the procedure. In addition, requiring additional information regarding the parent or legal guardians identification helps protect the tattoo artist and studio owner should someone attempt to falsify their authority to provide consent for the procedure.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment helps to prevent the spread of disease or infection that could result during a tattooing procedure, and protect the public health, as authorized by KRS 211.760.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in protecting the health of individuals seeking a tattoo as authorized by KRS 211.760 by updating the disinfecting and sterilization processes, ensuring all tattoo artists are properly registered and have completed bloodborne pathogen training, and requiring health department notification should there be an incident or accident where exposure to blood or body fluids is likely.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact 432 tattoo studios, 1337 tattoo artists, and 120 local or sixty-one (61) district health departments.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Individuals currently registered as a tattoo artist will need to obtain a bloodborne pathogen training that meets the required standard prior to the renewal of their registration. Studio owners will need to ensure each individual working in the studio completes the required training in a timely manner. Studio owners will need to be familiar with the changes to the studio and workstation design, the sanitation and plumbing requirements, as well as the disinfection and sterilization requirements in order to remain in compliance with this regulation. Event organizers who want to offer tattooing during the event will need to be familiar with the applicable sections of this regulation to ensure compliance. Local and district health department staff will need to ensure receipt of the bloodborne pathogen training documentation from the tattoo artist who is renewing their registration, and any new artist applying for registration. Local and district health departments may elect to offer the required bloodborne pathogen training. A health department offering training will need to ensure the training is in compliance with 29 C.F.R. 1910.1030. Local and district health department inspectors will need to be familiar with the changes in this administrative regulation and the inspection form.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The current fee for registration for both the individual and the studio is twenty (20) dollars. There has been no registration fee increase since this regulation was enacted in 1992 and is necessary to cover the cost of inspections. The proposed fee for a studio is being raised to \$400 for a studio with one (1) to four (4) workstations and an additional fifty (50) dollars for each additional workstation. This will result in an increased cost of \$380 or more for the studio. The current fee for registration for the individual tattoo artist is also twenty (20) dollars. This fee is being increased to \$100, which will result in an eighty (80) dollar increase for each individual. The fee for a mobile studio is \$400 for one

(1) to (4) workstations and an additional fifty (50) dollars for each additional workstation. This is consistent with the fee for a brick and mortar establishment. The fee for a temporary studio is \$250 per each workstation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All tattoo artists and studio owners will be operating under a uniform standard for tattooing. Artists will be trained in the proper procedures necessary to limit their exposure to bloodborne pathogens. Local health departments will also have a uniform standard available for conducting onsite inspections.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no additional costs to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional costs to implement this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds and revenue received from permitting and inspection fees continue to be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in funding is not necessary to implement this administrative regulation. The fees associated with this administrative regulation are being increased. The current registration fee of twenty (20) dollars is inadequate to offset the costs associated with operating a program for the registration and inspection of tattoo artist and tattoo studios.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees.

This amendment increases the fees associated with operating a tattoo studio and the individual registration of a tattoo artist.

The administrative cost to the cabinet is approximately \$150 per hour for environmental health inspectors for tattoo studios. This cost includes the salary of the inspector, fiscal year 2018 Kentucky Employee Retirement System (KERS) and Federal Insurance Contributions Act (FICA) contributions, and health and life insurance cost.

The number of workstations has an impact on the length of time required to conduct an inspection. The table below outlines the proposed change in the fee structure for tattoo studios.

|  | One (1) to four (4) workstations | More than four (4) workstations                      | Mobile studio | Temporary studio with one (1) to four (4) workstations | Temporary studio with more than four (4) workstations |
|--|----------------------------------|--|---------------|--|---|
| Avg. Hourly Rate (including FY-18 KERS, FICA, health & life, indirect) | \$150                            | \$150  | \$150         | \$150  | \$150   |
| Number of hours for inspection (not including travel time)             | 2                                | Increase by 0.5 hour for each additional workstation | 1.5           | 2  | Increase by 0.5 hour for each additional workstation  |
| Minimum number of routine inspec-                                      | 2                                | 2  | 1             | 1  | 1   |

|   |       |  |       |       |  |
|---|-------|--|-------|-------|--|
| tions   |       |  |       |       |  |
| Current Fee Established in KRS 211.760  | \$20  | \$20   | \$20  | \$20  | \$20   |
| Proposed Revised Fees (based on no re-inspection or enforcement action follow-up) | \$400 | \$50 for each additional workstation over four (4) | \$225 | \$250 | \$50 for each additional workstation over four (4) |
| Actual expenditure  | \$600 | \$600+   | \$225 | \$300 | \$300+   |

The inspection fee is based on a routine inspection only. It does not include the costs associated with doing follow-up inspections for the correction of identified noncompliance or for complaint investigations.

In addition to the time required for inspection, there is staff time dedicated to processing the applications for registration and following up on registrations that were not renewed timely and expired. The addition of the late payment penalty fee will help to offset some of the staff time costs associated with these follow-up activities.

(9) TIERING: Is tiering applied? Tiering is applied. The inspection of a tattoo studio that has one (1) to four (4) workstations takes approximately two (2) hours. A studio that has more than four (4) workstations will take longer to inspect. This results in a higher fee structure when the studio has more than four (4) workstations.

### FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact local and district health departments as well as the Food Safety Branch in the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 211.760, 28 C.F.R. 36.104, 29 C.F.R. 1910.1030.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is estimated the changes to the fee structure will generate \$172,800 from tattoo studios and \$133,700 from tattoo artists in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There is no anticipated change in revenue in subsequent years should the current number of registered studios and individuals remain steady.

(c) How much will it cost to administer this program for the first year? The current cost to administer all programs under the Food Safety Branch within the Division of Public Health Protection and Safety is \$5,524,622. There is no anticipated increase in costs to administer the tattoo inspection program this first year.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated increase in costs to administer the tattoo inspection program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 28 C.F.R. Part 36 – Non-discrimination on the basis of disability by public accommodations and in commercial facilities under the Americans with Disabilities Act (ADA); and 29 C.F.R. 1910.1030 Occupation Safety and Health Standards.

2. State compliance standards. KRS 211.760 authorizes the cabinet to promulgate administrative regulations relating to the health and cleanliness of places of business in which tattooing, body piercing or both are performed, procedures to prevent the spread of disease or infection during or relating to tattooing and body piercing procedures, and such other administrative regulations as may be necessary to protect public health.

3. Minimum or uniform standards contained in the federal mandate. The ADA requires a public accommodation to take the steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently. The federal regulations regarding bloodborne pathogens applies to all occupational exposure to blood or other potentially infectious materials.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements than those required by 28 C.F.R. Part 36 and 29 C.F.R. 1910.1030.