

**MESA COUNTY HEALTH DEPARTMENT
RULES AND REGULATIONS FOR
BODY ART ESTABLISHMENTS**

EFFECTIVE DATE: June 1, 2003

SECTION 1: DEFINITIONS AND PURPOSE

1-101 The purpose of these rules and regulations is to establish the safe and sanitary practice of body art, the safe and sanitary physical environment where body art is performed, and the safe and sanitary conditions of equipment utilized in body art procedures.

1-102 DEFINITIONS

- (A) **AFTERCARE INSTRUCTIONS** means written instructions given to the client, specific to the body art procedure(s) rendered. These instructions shall include information regarding when to seek medical treatment, if necessary.
- (B) **ANTISEPTIC** means a substance that inhibits growth of bacteria and other microorganisms when applied to the skin (e.g., chlorhexadine gluconate, alcohol, iodophor). It should not be used to decontaminate inanimate objects.
- (C) **BODY ART ESTABLISHMENT** means any location, whether temporary or permanent, where body art is performed. Body art establishment includes mobile body art vehicles and temporary special event body art facilities.
- (D) **BODY ART OR BODY ART PROCEDURE** means the practice of physical body adornment by establishments or artists utilizing, but not limited to, the techniques of body piercing, tattooing, including the transdermal introduction of permanent cosmetics, branding, sculpting, and scarification. This definition does not include practices conducted under the supervision of a physician licensed to practice medicine under Colorado law nor piercing of the outer perimeter or lobe of the ear by means of sterilized stud-and-clasp ear piercing systems.
- (E) **BODY ARTIST** means any person who performs body art procedures.
- (F) **BRANDING** means a potentially invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means.
- (G) **CERTIFICATE OF INSPECTION** means a document issued by the Department indicating that a body artist meets the standards set by the Colorado Department of Public Health and Environment and the Mesa County Health Department to operate a body art establishment and/or to perform body art procedures.
- (H) **CONTAMINATED** means the presence or reasonably anticipated presence of blood, infectious materials or other types of impure materials that have corrupted a surface or item through contact.
- (I) **CONTAMINATION** means to make unfit for use by the introduction or potential introduction of blood, infectious materials or other types of impure materials.
- (J) **DEPARTMENT** means the Mesa County Health Department or its authorized agents and employees.
- (K) **DISINFECTANT** means an EPA registered hospital grade disinfectant which has effectiveness against *Salmonella choleraesuis*, *Staphylococcus Aureus* and *Pseudomonas Aeruginosa* or 1:100 dilution of 5.25% sodium hypochlorite (chlorine bleach) and water, made fresh daily, dispensed from a spray bottle, and used to decontaminate inanimate objects and surfaces.

- (L) **DISINFECTION** means to destroy or inhibit pathogenic microorganisms on inanimate objects or surfaces.
- (M) **GLOVES** means those which are disposable and single use, and are labeled for surgical or examination purposes. Gloves for instrument cleaning shall be heavy-duty, multi-use and waterproof.
- (N) **HECTOGRAPHIC** means a copy made from a prepared gelatin surface to which the original document has been transferred.
- (O) **INFECTIOUS WASTE OR REGULATED WASTE** means blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials; items caked with blood or other potentially infectious materials that can release these materials upon handling; contaminated sharps; and human pathological/anatomical waste.
- (P) **INVASIVE** means entry through the skin or mucosa either by incision or insertion of an instrument body ornament, or any other means.
- (Q) **JEWELRY** means any ornament inserted into the body, which must be made of surgical, implant-grade stainless steel; solid 14K or 18K white or yellow gold; niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces.
- (R) **MOBILE BODY ART VEHICLE** means a mobile establishment or unit which is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal which operates at a fixed location where a permitted operator performs body art procedures for not more than fourteen (14) days in conjunction with a single event or celebration.
- (S) **PERSON IN CHARGE** means the owner, manager or individual(s) present at the body art establishment who is responsible for the operation at the time of an inspection. If no individual is responsible, then any employed person present is the person in charge. If multiple body artists share operation of the establishment, then each artist shall be considered a person in charge and shall be accountable for all requirements of this regulation with regard to common areas and practices in addition to his/her own separate areas and practices.
- (T) **PIERCING** means puncturing or penetration of the skin or mucosa of a person and the insertion of jewelry or other adornment in the opening, except that puncturing of the outer perimeter or lobe of the ear with sterilized stud-and-clasp ear piercing system shall not be included.
- (U) **PRE-STERILIZED INSTRUMENTS** means those that are commercially sterilized by the manufacturer. Packaging shall bear a legible sterilization lot number and expiration date.
- (V) **PROCEDURE AREA** means any surface of an inanimate object that contacts the client's skin during a body art procedure and all surfaces where instruments and supplies are placed during a procedure.
- (W) **SCARIFICATION** means an invasive procedure in which the intended result is the production of scar tissue on the surface of the skin.
- (X) **SCULPTING** means a modification of the skin, mucosa, cartilage, or tissue of the body for non-medical purposes.
- (Y) **SHARPS CONTAINER** means a puncture-resistant, leak-proof, rigid container that can be closed for handling, storage, transportation and disposal and is labeled with the universal biological hazard symbol.
- (Z) **SHARPS** means all objects (sterile or contaminated) that may purposely or accidentally cut the skin or mucosa including, but not limited to, single use needles, scalpel, blades and razor blades. It does not include disposable safety razors which have not broken the skin.
- (AA) **STERILIZATION** means a process that results in the total destruction of all forms of microbial life, including highly resistant bacterial spores.

- (BB) STERILIZER means an autoclave that is designed and labeled by the manufacturer as a medical instrument sterilizer and is used for the destruction of microorganisms and their spores.
- (CC) TATTOOING means inserting pigment under the surface of the human skin or mucosa by pricking with a needle or other means, to permanently change the color or appearance of the human skin or to produce an indelible mark or figure visible through the human skin.
- (DD) TEMPORARY SPECIAL EVENT BODY ART FACILITY means any place or premise operating at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.
- (EE) UNIVERSAL PRECAUTIONS means a set of precautions designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B and other blood borne pathogens as defined by the Centers for Disease Control. Under universal precautions, blood and certain body fluids of all individuals are considered infectious.

SECTION 2: POWERS AND DUTIES OF THE DEPARTMENT

2-201 The Department shall administer the Mesa County Body Art Rules and Regulations, and the Rules and Regulations Governing Body Art in the State of Colorado issued by the Colorado Department of Public Health and Environment, within the County of Mesa. The Department's powers and duties shall include review of design and construction plans for body art establishments; receipt of applications for, and issuance of, Certificates of Inspection and renewals of Certificates of Inspection; periodic inspection of body art facilities; inspection of reported violations of these Rules and Regulations, and the Rules and Regulations Governing Body Art in the State of Colorado issued by the Colorado Department of Public Health and Environment, and issuance of notices and instructions to cure such violations; holding hearings related to denial, suspension or revocation of Certificates of Inspection; and performance of any other acts necessary to fulfill the duties of administration of these Rules and Regulations, the Rules and Regulations Governing Body Art in the State of Colorado issued by the Colorado Department of Public Health and Environment, and to protect the public health in connection with Body art and body art procedures.

SECTION 3: CONSTRUCTION STANDARDS

- 3-301 Any person wishing to construct a new body art facility, to change the use of an existing structure to use as a body art facility, or to change the use of or remodel an existing body art facility, shall obtain the approval of the Department of the plans for the construction, change of use or remodeling prior to applying for any building, plumbing or electrical permit.
- 3-302 Plans shall indicate the layout of the reception area, the procedure area(s), the cleaning and sterilization area, the storage area, and the toilet facilities. A minimum of two weeks shall be allowed for the review process.

SECTION 4: CERTIFICATE OF INSPECTION

- 4-401 No person shall operate a body art establishment without first obtaining a Certificate of Inspection as provided herein.

- 4-402 No person shall perform body art procedures except within a body art establishment for which a current valid Certificate of Inspection has been issued by the Department.
- 4-403 A current valid Certificate of Inspection shall be prominently displayed and visible in any body art establishment in which body art procedures are performed. The Certificate of Inspection shall be applicable to the body art establishment in which it is displayed. The person in charge shall make available the most recent inspection report applicable to the body art establishment to the public upon request.
- 4-404 All Certificates of Inspection are valid for a calendar year, or such portion thereof as remains after the Certificate of Inspection is issued. Certificates of Inspection are not transferable to any other person or body art establishment.
- 4-405 Application for renewal of an existing Certificate of Inspection shall be made by December 1 of the calendar year in which the Certificate was issued.
- 4-406 Persons obtaining a Body Art Establishment Certificate of Inspection must maintain compliance with all requirements of these Rules and Regulations.
- 4-407 Body Art Establishment Certificate of Inspection holders shall notify the Department within 10 days of any change of information as it applies to Section 6, Section 7 and Section 9 of these Rules and Regulations.
- 4-408 The requirements set forth in Sections 4-401, 4-402, 4-403 and 4-408 shall take effect June 1, 2003.

SECTION 5: CERTIFICATE OF INSPECTION APPLICATION AND INSPECTION FEE SCHEDULE

- 5-501 Applicants for a Body Art Establishment Certificate of Inspection shall file an application with the Department, along with the required plan review form, on forms provided by the Department for that purpose.
- 5-502 The Department shall collect reasonable inspection fees in connection with the administration of these Rules and Regulations. The fee schedule has been established in the following amounts:
- (A) \$100.00 Body Art Establishment Certificate of Inspection
 - (B) \$100.00 Body Art Establishment Annual Certificate of Inspection Renewal
 - (C) \$200.00 Temporary/Mobile Body Art Establishment Special Event Certificate of Inspection
 - (D) \$ 75.00 Body Art Establishment Plan Review (90 minutes; Additional review time at \$50.00/hour)

SECTION 6: MINIMUM REQUIREMENTS FOR BODY ARTISTS

- 6-601 All body artists shall comply with the following:

- (A) Possess and demonstrate knowledge of universal precautions, disinfection and sterilization techniques, procedures for infection and exposure control required in Section 11-101(A), and the infectious waste management plan required in Section 11-1104(B) 4.
- (B) Receive vaccination against hepatitis B (HBV) or provide a written statement to the manager or owner of the body art establishment stating that he/she declines the vaccination.

SECTION 7: MINIMUM REQUIREMENTS FOR BODY ART ESTABLISHMENTS

- 7-701 The body art establishment must have a person(s) in charge at all times who is responsible for the operation.
- 7-702 The following information on each employee of a body art establishment shall be on file and available for inspection by the Department:
- (A) Full legal name
 - (B) Home address
 - (C) Home phone number
 - (D) Proof that all employees handling sharps and/or infectious waste have either completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering shall be included as a pre-employment requirement and comply with Section 6-601(B).
- 7-703 The person(s) in charge shall have access to the following information and it shall be on the premises for review by the Department:
- (A) Contract or agreement for sharps disposal and/or other infectious/regulated waste disposal
 - (B) Spore test log and test results
 - (C) Client records
 - (D) Manufacturer's information on sterilization equipment
 - (E) Infection and exposure control written procedures.

SECTION 8: CLIENT RECORDS

- 8-801 The person(s) in charge shall have access to and shall maintain client records on the premise for a minimum of three (3) years. If the client is a minor at the time of the body art procedure, the client records shall be maintained on the premise until the client has reached the age of twenty-one (21). The client records shall be available for review by the Department.
- 8-802 The following information shall be documented and used by the body artist to determine the client's suitability for receiving a body art procedure. In order to assure insofar as possible the proper healing of a client following a body art procedure, the client shall be asked to disclose if he/she has any of the following:
- (A) Diabetes
 - (B) Hemophilia
 - (C) Skin disease or skin lesions
 - (D) Allergies or adverse reactions to latex, pigments, dyes, disinfectants, soaps or metals

- (E) Treatment with anticoagulants or other medications that thin the blood and/or interfere with blood clotting
- (F) Any other information that would aid the body artist in the client's body art healing process evaluation.

8-803 Client consent form for all procedures shall include the following:

- (A) Name, address and current phone number of the client
- (B) Date of the procedure
- (C) The type and location of the body art
- (D) Documentation that both written and verbal instructions regarding risks, outcome and aftercare were given to the client including:
 1. Name, address, and phone number of the establishment and the name of the body artist who performed the procedure;
 2. Direction of when to consult a physician to include signs of infection, allergic reaction and expected duration of healing;
 3. Detailed description of how to care for the body art procedure site;
 4. Explanation that body art should be considered permanent; and
 5. Possible side effects from the procedure.

8-804 The Department encourages consultation with a legal advisor regarding other information to include on a consent form, such as a list of possible adverse effects.

SECTION 9: FACILITY AND OPERATIONAL REQUIREMENTS

9-901 All procedure areas and instrument cleaning areas shall have floors, walls and ceilings constructed of smooth, nonabsorbent and easily cleanable material. Outer openings shall provide protection against contamination from dust and other contaminants.

9-902 Toilet facilities shall be provided and shall be made available to both patrons and employees during all business hours. Floors and walls within toilet facilities shall be constructed of smooth, nonabsorbent and easily cleanable material.

9-903 The premises shall be maintained clean and in good repair.

9-904 At least fifty (50) foot candles of artificial light shall be provided at the level where the body art procedure is performed and in instrument cleaning and sterilization areas.

9-905 All surfaces, including, but not limited to, counters, tables, equipment, chairs, recliners, shelving and cabinets in the procedure area and instrument cleaning room shall be made of smooth, nonabsorbent materials to allow for easy cleaning and disinfection.

9-906 Hand wash sinks shall be supplied with hot and cold running water delivered through a mixing faucet and under pressure. Hand sinks shall be easily accessible to each procedure area and shall be located so that one artist does not potentially contaminate another artist's area. Each hand sink shall be provided with soap and disposable towels or a hand-drying device providing heated air. In addition, a hand sink shall be provided in or adjacent to each toilet room.

9-907 Distinct, separate areas shall be used for cleaning equipment, wrapping/packaging equipment, and for the handling and storage of sterilized equipment.

- 9-908 Instrument cleaning sinks, hand washing sinks and, where provided, utility sinks shall be separate and shall only be used for their designated purpose.
- 9-909 Water shall be supplied from a source approved by the Department.
- 9-910 Sewage, including liquid wastes, shall be discharged to a sanitary sewer or to a sewage system constructed, operated and maintained according to law.
- 9-911 Refuse, excluding infectious wastes, shall be placed in a lined waste receptacle and disposed of at a frequency that does not create a health or sanitation hazard.
- 9-912 All facilities shall have a waiting area that is separate from the body art procedure area, and from the instrument cleaning, sterilization, and storage areas.
- 9-913 Reusable cloth items shall be mechanically washed with detergent in water at a minimum of 140°F. unless an approved disinfectant is applied in the rinse cycle or the dryer uses heat above 140°F. as specified by the manufacturer. Clean cloth items shall be stored in a clean, dry environment until used. Soiled laundry shall be stored in a nonabsorbent container until removed for laundering and shall be stored separate from clean clothes.
- 9-914 Animals shall not be allowed in the body art procedure area(s), or the instrument cleaning, sterilization, or storage areas. Fish aquariums and/or service animals shall be allowed in waiting rooms and non-procedural areas.
- 9-915 All chemicals shall be labeled with contents, properly stored, and used according to label instructions.
- 9-916 All body art establishments shall be completely separated from areas used for human habitation, food preparation, or other such activities that may cause potential contamination of work surfaces.
- 9-917 Utensil washing and utility sinks with threaded faucets shall be equipped with back flow prevention devices approved by the Department.
- 9-918 Sharps and infectious/regulated waste must be handled in a manner consistent with §25-15-401, CRS.
- (A) Discarded sharps shall be disposed of in sharps containers.
 - (B) Infectious/regulated waste other than sharps shall be placed in impervious, tear resistant, plastic bags, which are red in color and marked with the universal biological hazard symbol.
 - (C) Sharps and infectious/regulated waste shall be disposed of by an approved, off-site treatment facility, or waste may be treated on-site if the treatment complies with all federal, state and local requirements.
 - (D) On-site treatment requires a written plan outlining disposal as required in Section 11-1101(B) 4.

SECTION 10: TEMPORARY, SPECIAL EVENT AND MOBILE BODY ART REQUIREMENTS

10-1001 All provisions of these Rules and Regulations shall apply with the following exceptions:

- (A) Hand wash facilities shall be easily accessible to each procedure area and designated for use by artists only. Hand wash facilities shall comply with Section 9-906 or, temporary hand wash facilities shall consist of soap, single use paper towels and an adequate supply of potable water dispensed through a continuous flow spout. Wastewater shall be collected and disposed of in a sanitary manner.
- (B) Body artists may bring pre-sterilized instruments, or instruments which have been sterilized at another location with documentation showing negative spore test results within the previous 30 days. On-site sterilization units may be used and shall comply with Section 12-1203.

10-1002 After the last procedure is completed, all procedure areas shall be cleaned and disinfected.

10-1003 A legible copy of all required records are to be submitted to the Mesa County Health Department for all body art procedures performed in Mesa County at any temporary event, special event and/or mobile body art operation. The required copies must be submitted to the Department within 48 hours of the procedure or special event. All copies of all records will be maintained by the Mesa County Health Department as required by the Rules and Regulations.

SECTION 11: INFECTION AND EXPOSURE CONTROL WRITTEN PROCEDURES

11-1101 Written procedures

- (A) Every body art establishment shall have and comply with written procedures for infection and exposure control. All procedures developed for the written plan shall be in compliance with standards, and all local and state regulations.
- (B) These written procedures shall include, but are not limited to:
 - 1. Instrument cleaning and sterilization
 - 2. Cleaning and disinfection of the procedure area(s), as required in Section 13-1302(G)
 - 3. Universal precautions procedures
 - 4. Infectious waste management plan, consistent with §25-15-401 CRS, including segregation, identification, packaging, storage, transport, treatment, disposal and contingency planning for blood spills or loss of containment of infectious/regulates waste.

SECTION 12: INSTRUMENTS/STERILIZATION

12-1201 Instrument cleaning

- (A) All instruments that penetrate body tissue shall be properly cleaned prior to packaging and sterilization. All other instruments shall be cleaned and disinfected after each use.
- (B) All instruments placed in the procedure area shall be repackaged and re-sterilized.

- (C) Employees shall wear heavy-duty, multi-use, and waterproof gloves while cleaning instruments.
- (D) Used instruments shall be soaked in a disinfectant until cleaning can be performed. The solution shall be changed in a time as recommended by the solution manufacturer.
- (E) Instruments shall be disassembled for cleaning.
- (F) All instrument components shall be cleaned, either manually or in an ultrasonic cleaner, using the appropriate cleaning agent specific to the type of cleaning performed.

12-1202 Instrument packaging/wrapping

- (A) Employees shall wear clean gloves while packaging/wrapping instruments.
- (B) Instruments shall be wrapped or packaged with sterilizer indicator on or in each package.
- (C) All packages shall be labeled with the time and date of sterilization. Packages will no longer be considered sterile six (6) months after the date of sterilization.

12-1203 Instrument sterilization

- (A) The sterilizer shall be designed and labeled as a medical instrument sterilizer.
- (B) The operators' manual for the sterilizer shall be available on the premise and the sterilizer shall be operated according to manufacturer's recommendations.
- (C) The sterilizer shall be cleaned and maintained according to manufacturer's specifications.
- (D) A sterilizer load log shall be maintained for a minimum of three (3) years at the facility and made available for inspection. The log shall contain the following documentation for each load:
 - 1. Description of instruments contained in the load;
 - 2. Date of sterilization load, and time or other unique identifier if more than one load is processed during a single day;
 - 3. Sterilizer cycle time and temperature;
 - 4. Indication of proper sterilization of instruments, as evidenced by the appropriate color indicator change on each package. Indicator used shall be compatible with the sterilization process being used; and
 - 5. Action taken when appropriate color indicator change did not occur.
- (E) Sterilizer monitoring
 - 1. Sterilizer monitoring shall be performed at least weekly (unless more frequent monitoring is specified by the manufacturer) by using a commercial biological monitoring (spore) system.
 - 2. All biological indicators shall be analyzed by a laboratory independent from the establishment.
 - 3. Biological indicator test results shall be maintained on the premises for a minimum of three (3) years and must be available for inspection at all times.

12-1204 Instrument storage

- (A) Hands shall be washed prior to handling sterilized instrument packs.
- (B) After sterilization. The instruments shall be stored in a dry, clean area reserved for storage of sterile instruments.

12-1205 Single use items

- (A) Single use items shall not be used on more than one client and shall be disposed of after the procedure.

- (B) Contaminated single use needles, razors and other sharps shall be disposed of immediately in approved sharps containers.

SECTION 13: BODY ART PROCEDURE

13-1301 Prohibitions include:

- (A) Procedures performed on any person who is noticeably impaired by drugs or alcohol.
- (B) Smoking, eating or drinking in the procedure and/or instrument cleaning areas.
- (C) Procedures performed on skin surfaces that have sunburn, rash, pimples, boils, infections, moles, or manifest any evidence of unhealthy conditions.

13-1302 The following procedures shall be practiced by all body artists:

- (A) Thoroughly wash hands with soap and warm water for at least 15 seconds before and after serving each client. Following thorough washing, hands shall be dried using clean, disposable paper towels, or a hand-drying device providing heated air.
- (B) Wear new, clean gloves for each procedure. If a glove is pierced, torn or contaminated, both gloves must be properly removed and discarded. Hands shall be washed prior to donning a new pair of gloves.
- (C) Change drapes, lap cloths or aprons between each client. If multi-use, these items shall be washed according to Section 9-913 prior to reuse.
- (D) Wear new, clean gloves while assembling instruments and supplies to be used in the procedure. All sterilized instruments shall remain in the sterile packages until opened in front of the client.
- (E) Dispense all substances used in the procedures from containers in a manner to prevent contamination of the unused portion. For example, substances from multi-use containers shall be dispensed into single use portions and shall be applied to only one client.
- (F) Discard single use ointment tubes, applicator and supplies after the procedure.
- (G) After each client, use a disinfectant according to label instructions, and a single use paper towel to wipe all surfaces touched during the procedure. Surfaces include, but are not limited to, counters, tables, equipment, chairs, recliners, shelving, cabinets, and supplies.

13-1303 Procedures specific to tattooing

- (A) The use of hectographic or single-use stencils shall be required for applying a tattoo outline to the skin, except that, when the design is drawn free hand, non-toxic single use markers or other non-toxic single use devices shall be used. Multi-use stencils are prohibited unless they can be properly disinfected between uses.
- (B) Before placing the design on the skin, the body artist shall clean the area with soap and, if necessary, shave off any hair with a disposable, single use safety razor or a disinfected multi-use razor. The area shall be treated with an antiseptic prior to stencil application.
- (C) Inks, dyes, or pigments in single use containers shall be used for each client. Any remaining unused dye or pigment shall be discarded immediately following the tattoo procedure.
- (D) Excess ink, dye, or pigment applied to the skin during tattooing shall be removed with a clean single use product.
- (E) After the procedure is completed, the area shall be covered with clean gauze or an appropriate bandage and held in place with a suitable skin tape.

13-1304 Procedures specific to body piercing

- (A) All body piercing needles shall be sterile, single use, and manufactured for either medical or body piercing purposes. All needles shall be disposed of immediately after use in a sharps container.
- (B) Only sterilized jewelry or new jewelry that has been disinfected and is clean and in +good condition shall be used.
- (C) Stud-and-clasp systems shall be used according to manufacturer's instructions and shall only be used on the earlobe or the outer perimeter of the ear.

SECTION 14: INSPECTIONS

- 14-1401 Agents of the Department, after proper identification, shall be permitted to enter any body art establishment during business hours for the purpose of making inspections, investigating complaints and to determine compliance with these Rules and Regulations. Agents of the Department shall only enter a procedure area with the client's consent.
- 14-1402 The agents shall be permitted to examine documents or true copies of documents relative to the requirements of these Rules and Regulations.
- 14-1403 Whenever an inspection of a body art establishment is made, the findings shall be recorded and shall describe violations that exist. A copy of the completed report shall be furnished to the person(s) in charge by the end of the next work day following conclusion of the inspection.

SECTION 15: PENALTIES FOR VIOLATIONS

- 15-1501 Upon a finding by the Department that a body art facility is in violation of any rule adopted pursuant to Section 25-4-2102, the Department may assess a penalty not to exceed two hundred fifty dollars (\$250.00) for each day of a violation. Each day of a violation shall be considered a separate offense. The Department shall consider the degree of danger to the public caused by the violation, the duration of the violation, and whether such facility has committed any similar violations.