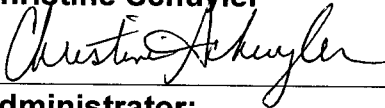


Chautauqua County Department of Health and Human Services Policy and Procedure

Prepared by: Jessica Wuerstle / Environmental Health Director	Approved by: Christine Schuyler 	Policy # 2022-01
Department: Environmental Health Services	Administrator: Jessica Wuerstle	Date Issued: 11/01/2022
Title: Body Artist and Body Art Establishment Requirements		
NYS Public Health Law Article 4A; Chautauqua County Sanitary Code, Article XIII		

I. General Statement

No person shall operate a body art establishment unless they have applied for and been granted a Body Art Establishment Certificate of Sanitation by the Public Health Director. No person except a duly licensed physician shall engage in the act of applying body art through means of tattooing or body piercing unless they have applied for and been granted a Body Artist Certificate by the Public Health Director.

II. Administration

The Environmental Health Director is responsible for the proper administration of, and revisions to, this policy and procedure.

III. Policy / Procedure

Policy

The intent and purpose of this Policy and Procedure is to regulate the practices of tattooing and body piercing in Chautauqua County. Nothing herein contained shall be construed to authorize or permit body modification, subdermal implantation, branding, scarification, suspension piercing, or other non-tattooing, non-piercing or medical procedures.

Prohibitions

No person except a duly licensed physician shall engage in the practice of tattooing or body piercing or act as a body artist unless such person has a body artist certification issued by the Chautauqua County Department of Health and Human Services, Division of Public Health - Environmental Health Services Unit (Department) on a form prescribed by the Department.

Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system are exempt from the requirements of these regulations; they must conform to the manufacturer's directions on the use and applicable United States Food and Drug Administration (FDA) requirements. The Department shall have the authority to investigate consumer complaints relating to alleged misuse or improper disinfection of ear piercing systems.

It is a violation of Section 260.21 of New York State Penal Law to tattoo minors under the age of eighteen (18), regardless of parental consent. Individuals under the age of 18 may be pierced only with written and notarized consent from a parent or legal guardian. The written consent shall be notarized and presented by the parent or legal guardian in person at the body art establishment. The consenting parent or legal guardian must also present valid government issued identification.

A body artist shall not tattoo or pierce any person who appears to be under the influence of drugs, alcohol, or other substances. Body artists shall not work if they are under the influence of drugs, alcohol, or other substances. Body artists and patrons are prohibited from using tobacco or cannabis products in the body art establishment, including but not limited to cigarettes, cigars, bidis, gutka, chewing tobacco, powdered tobacco, nicotine water, herbal cigarettes, shisha, electronic cigarettes, vape pens, and smoking paraphernalia.

Definitions

After Care Information means the verbal and written information given to a patron of a body art establishment regarding the care for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

Antiseptic means a substance that prevents the growth of disease-causing microorganisms.

Autoclave means a pressurized device that is registered and listed with the United States Food and Drug Administration (FDA) and used for sterilization of equipment.

Body Art means body piercing or tattooing.

Body Art Establishment means a "body piercing studio" or "tattoo studio", where a body artist practices body piercing or tattooing.

Body Artist means a person who practices body art, and shall include "body piercing specialist" or "tattooist".

Body Piercing means the piercing of any part of the body for the purpose of applying jewelry to various parts of the body by means of a piercing device. Puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition. Body piercing shall not include tongue splitting as defined in Article 4-B of the Public Health Law.

Contaminated Waste means sharps or items containing blood or any other potentially infectious materials as defined in the Occupational Safety and Health Administration Bloodborne Pathogen Standard, Title 29 of the Code of Federal Regulations 1910.1030 (OSHA 29 CFR 1910.1030).

Department means the Chautauqua County Department of Health and Human Services - Division of Environmental Health and/or the Chautauqua County Department of Health.

Disinfectant means a solution which destroys disease causing microorganisms on inanimate

objects or surfaces, registered with the United States Environmental Protection Agency.

EPA means the United States Environmental Protection Agency.

FDA means the United States Food and Drug Administration.

Operator means a person, corporation, partnership, limited liability company, or other legal entity that operates a body art establishment.

Patron means an individual who obtains body piercing or tattooing services.

Sharps Container means a container for disposing of contaminated sharps and for limiting exposure to employees and the public.

Single Use Disposable means items and equipment intended for one-time, one-person use which are disposed of after use on each patron, including, but not limited to, cotton swabs or balls; tissues or paper products; gauze; cap containers of ink, dye or pigment; razors; needles; tubes; tracing paper; barrier film; protective gloves, masks, and other personal protective equipment.

Sterilization means the process which destroys all forms of microbes, including spore forms.

Tattoo means a mark on the body of a person with indelible ink, dye, or pigment injected beneath the outer layer of the skin.

Tattooing means making a mark on the body of a person with indelible ink, dye, or pigment injected beneath the outer layer of the skin. Tattooing includes, but is not limited to, cosmetic tattooing, also called micropigmentation or permanent makeup.

Workroom means the room where the actual body art procedure occurs.

Procedure

Section 1: Body Artist Certification

- a) Any person intending to engage in tattooing or body piercing shall submit an application for a body artist certification to the Department on a form prescribed by the Department. Body artists must be a minimum of 18 years old. Valid government issued identification will be required to prove body artist age. A copy of the identification will be kept on file with the body artist's certification. The applicant shall pay a reasonable fee as set by the Department, for their body artist certificate.
- b) Each applicant shall be required to take and pass an examination prescribed by the Department before an initial body artist certification will be issued. Artists must score a minimum of 80% to pass the exam. If a documented safety issue is identified by the Department, the body artist may be required to re-test to maintain their certification.
- c) Body artist certificates will only be issued to applicants once they have made arrangements to perform all tattooing and body piercing in one or more body art establishments in Chautauqua County. Certifications must be prominently displayed to the public in every facility where the body artist practices. The body artist certification shall not be transferable from one person to another.
- d) The body artist certification shall expire on December 31 of each year. Application for renewal shall be submitted to the Department at least 15 days before the expiration of the certificate.

Body artist certificates may be revoked or denied due to outstanding body artist legal fines or lack of adherence to Department requirements.

- e) Body artists working as temporary or guest artists in Chautauqua County must take and pass the body artist exam, pay the fee, and work out of a Department certified body art establishment.
- f) Body artists should complete bloodborne pathogen trainings regularly to stay up-to-date on safety practices and emerging health concerns.
- g) Body artists are encouraged to be vaccinated for bloodborne pathogens, such as Hepatitis B, and communicable diseases, such as Hepatitis A, and respiratory viruses whenever possible to provide the best level of protection to themselves and their patrons.

Section 2: Body Art Establishment Certificate of Sanitation

- a) A body art establishment shall not operate unless a certificate of sanitation has been issued by the Department. A pre-operational inspection must be completed by the Department before a certificate will be issued. If the shop has an autoclave the certificate of sanitation shall not be issued until documentation of the autoclave's ability to destroy spores is received by the Department. The applicant shall pay a reasonable fee as set by the Department, for each certificate of sanitation.
- b) The body art establishment certificate of sanitation shall expire on December 31 of each year. Application for renewal shall be submitted to the Department at least 15 days before the expiration of the certificate. Establishment certificates may be revoked or denied due to outstanding body art establishment legal fines or lack of adherence to Department requirements.
- c) Body art establishment certificates of sanitation shall be posted in a prominent and conspicuous area where it may be readily visible to patrons.
- d) Certificates of sanitation shall not be transferable from one place or person to another. Structural renovations and any changes to the originally permitted shop layout and operating equipment must be reviewed with the Department prior to completion of work.

Section 3: General Body Art Establishment Requirements

- a) Body art establishments will not be operated in any room used as living or sleeping quarters. The body art establishment must be separated from living and sleeping quarters by complete partitioning and solid closing doors. Establishment doors must be secure and able to lock.
- b) The water supply for a body art establishment shall be adequate, of safe and sanitary quality, from an acceptable source, and shall meet the requirements of the New York State Sanitary Code (10 NYCRR Part 5) and the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR Part 5). All water supplies must be evaluated and certified by the Department.
- c) Establishments served by a private water supply must request and obtain a waiver from the Department. Waivers may be granted provided the following conditions are met:

- i. The operator implements any recommendations prescribed by the Department to bring the water system into compliance with the standards contained in Part 5 of the New York State Sanitary Code or 10 NYCRR Part 5. Recommendations may include, but are not limited to, changes to the height and extension material of the well casing, a sanitary seal well cap, filtration, and a permanent disinfection system.
 - ii. The water supply conforms to microbiological standards for potable water as demonstrated by annual bacteriological testing submitted and paid for by the establishment operator.
- d) The Department may collect a water sample in response to a complaint, as part of the establishment inspection process, or as deemed necessary by a Department representative.
 - e) The operator shall provide for the proper, safe, and secure disposal of all types of waste products. At least one covered, foot operated waste receptacle shall be provided in each body artist work area and each toilet room. Receptacles in the work area shall be emptied daily and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, easily cleanable and kept clean.
 - f) A conveniently located, clean and sanitary toilet and hand-washing facility with hot and cold running water, soap, and single service towels or hand drying devices, shall be available.
 - g) All wastewater and sewage shall be disposed of in a public sewer or, in the absence thereof, in a manner satisfactory to the Department. Toilet rooms must be completely enclosed and have tight fitting doors. As an extension of the body art establishment, the toilet room must be maintained for commercial use only.
 - h) The building and equipment shall be maintained in a state of good repair at all times. The premises shall be kept clean, neat, and free of litter and rubbish. All instruments and supplies shall be stored in clean, dry and covered containers. The establishment shall be kept free of rodents and vermin and protected from infestation by insects.
 - i) Body art establishments must have adequate light and ventilation. All walls and ceilings shall be smooth and easily cleaned. Floors, walls, and ceilings shall not be swept or cleaned while tattooing or body piercing is occurring.
 - j) Secure, well maintained fish tanks shall be allowed only in the waiting room or body artist breakroom areas. Fish tanks shall be prohibited in workrooms and any space where body art equipment is stored. All other animals shall be prohibited in a body art establishment.

Section 4: Workroom Specifics

- a) The workroom(s) will be apart from a waiting room, break room, etc. The workroom shall not be used as a corridor for access to other rooms. Tattooing and body piercing will only occur in the workroom. The workroom will not be used for other activities such as hair styling, massage, etc. Only articles considered necessary for tattooing and body piercing shall be permitted in the workroom.
- b) Workroom walls and ceilings must be painted a light color. Workroom floors shall be of impervious material which allow for daily sweeping and wet-mopping.
- c) Cabinets for the storage of instruments, dyes, pigments, stencils, etc. shall be provided for each body art artist, and shall be maintained in a sanitary manner.

- d) Work tables will be used by body artists during body art procedures to hold equipment, pigment caps, pre and post procedure skin care items, etc. The surface of all work tables shall be constructed of metal or other material which is smooth, nonabsorbent, and easily sanitized.
- e) Sharps containers shall be:
 - i. marked prominently with the universal warning sign or the word biohazard,
 - ii. secured and situated so as to prevent leakage or preclude loss of contents during handling, storage and/or transport, and be located away from pedestrian traffic, and
 - iii. maintained in a sanitary condition consistent with any additional OSHA design standards, including, but not limited to, those set forth by at 29 CFR 1910.1030.
- f) Autoclaves shall be maintained in a secure location away from areas frequented by the public.
- g) Body art establishments must have distinct hand-wash facilities for body artists with unobstructed access to the workroom. The hand-wash facilities shall be used exclusively by the body artist(s) for washing hands and preparing customers for tattooing or body piercing. Hand-wash facilities shall be equipped with hot and cold water from a source approved by the Department, hands-free faucet (i.e. foot pedal activated or automated), antimicrobial liquid soap, single use disposable towels, and a covered waste receptacle.

Section 5: Consent Form and Procedure Bound Book

- a) A consent form shall be completed for all body art procedures prior to the procedure. At a minimum, the consent form must contain:
 - i. Establishment information including name, address, and establishment contact information.
 - ii. Body artist's printed name.
 - iii. Patron's printed name, signature, date of birth, and contact information. If the patron is under eighteen (as permitted for piercings only), the consenting parent or legal guardian's information must be documented.
 - iv. Patron acknowledgement that printed aftercare instructions were provided and discussed prior to the procedure.
 - v. Applied art description shall include date of application, design and location of tattoo or piercing. If a patron will sit multiple times to complete a large design, a consent form is not required for each visit provided the date of each visit is listed on the original consent form.
- b) Consent forms shall be maintained at the body art establishment. Records must be filed chronologically for easy review by the Department. Records must be maintained for seven (7) years. At time of disposal, documents containing identifying information or proof of identity, including date of birth, must be shredded.
- c) Each procedure shall be recorded in a bound book, to allow for an easy review of timeline of patrons visiting the body art establishment. Bound book records shall include:

- i. The establishment name, address, and contact information.
 - ii. The body artist name and contact information.
 - iii. Patron printed name and contact information. If the patron is under 18, the consenting parent or legal guardian's name and contact information must be documented.
 - iv. The date of the procedure.
 - v. If the tattoo design requires multiple visits then each date must be recorded in the bound book, however, only one consent form is required.
- d) Proof of age shall be determined upon presentation of valid government issued identification that includes a date of birth. Valid identification may include, but is not limited to, a government-issued driver license or non-driver ID, passport, or birth certificate. Shops must make a copy of the patron's identification and maintain the copy with other patron records for at least seven (7) years. Notarized consent forms related to body piercing of a minor must be maintained with other patron records and the parent or legal guardian identification for at least seven years. After seven years, identification records must be shredded.

Section 6: After Care Instructions

- a) The body artist must explain aftercare instructions prior to the procedure. A printed copy of the aftercare instructions must be given to each patron.
- b) Aftercare instructions must include:
- i. The establishment name, address, and contact information.
 - ii. The body artist's printed name.
 - iii. The suggested care of the area where body art was applied (ointments, bandages, washing, etc.).
 - iv. Information regarding the security or snugness of piercing jewelry.
 - v. Instructions for the patron to consult their physician immediately should an infection become evident.
 - vi. The following public health advisement "If an infection or any complications arise following the procedure notify the Chautauqua County Environmental Health Unit at 716-753-4481".

Section 7: Body Art Procedures

- a) Body artists who are experiencing symptoms such as diarrhea, vomiting, fever, rash, productive cough, jaundice, or draining (or open) skin infections, such as boils, impetigo or scabies, must refrain from body art activities. The Department may require an artist who is found to have a disease in communicable form, or is suspected of having such a disease, to submit a statement signed by a duly licensed physician attesting that the artist is free from communicable disease.

- b) Each body artist shall maintain a high standard of personal cleanliness and conform to hygiene practices while on duty. The body artist shall keep fingernails clean and neatly trimmed. While engaged in tattooing or body piercing procedures, body artists shall not wear excessive cosmetics or excessive jewelry, which may be deemed by the Department to interfere with proper hand-washing techniques.
- c) The body artist shall clean their hands and exposed areas of the arms thoroughly by lathering and vigorously scrubbing for 20 seconds using liquid antimicrobial soap. Hands shall be dried by single use paper towels or other mechanical means. Disposable gloves shall then be worn by the artist. Gloves must be changed if they touch any other person or non-clean surface or if gloves become pierced or torn.
- d) Before performing a body art procedure, the immediate and surrounding area of the skin where the body art procedure is to be placed shall be washed with liquid soap and water or an approved surgical skin preparation. The area being tattooed or pierced must be free of sores and lesions. If shaving is necessary, only single-use disposable razors or safety razors with single-service blades shall be used. Following shaving, the skin and surrounding area will be washed with soap, water, and single use items.
- e) Before starting a body art procedure, an FDA approved antiseptic shall be applied to the body art procedure site. The solution shall air dry before the body art procedure is commenced. Any substance applied to the area to be tattooed or body pierced should be dispensed from a container in a sanitary manner that prevents contamination of the original container and its contents, preferably from single-use collapsible tubes. Applied substances may be spread using single use items.
- f) A set of individual, single-use sterile needles shall be used by a body artist for each new patron. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps containers.
- g) Single-service tissue and hectographic stencils shall be required for applying a tattoo outline to the skin. If drawn free-hand, non-toxic markers or other devices as approved by the Department shall be used.
- h) For all body piercing, a single-use, sterilized disposable surgical piercing needle of the same gauge as the jewelry is required. Jewelry must be free of nicks, scratches, and irregular surfaces. When applied, jewelry should be pushed through the skin following the needle, in the same direction as the piercing.
- i) Jewelry used for initial piercings on people shall be sterile, lead free, and made of one of the following materials:
- surgical steel, titanium, niobium,
 - solid 14k -18k yellow, white, or rose gold that is nickel and cadmium free,
 - platinum that is nickel and cadmium free,
 - glass that is lead free (i.e. fused quartz, borosilicate, soda-lime).
- j) Only nontoxic dyes or pigments shall be used. All inks, dyes, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to the manufacturer's instructions, including adherence to pigment expiration dates. Approved inks, dyes or pigments may only be diluted with sterile water. Immediately before applying a tattoo, the quantity of the pigment to be used shall be transferred from the pigment bottle and placed into single-use paper or plastic cups or caps. Upon completion of

the tattoo, used single cups or caps and their contents shall be discarded.

- k) In the event of blood flow, only single use products will be used to check the flow of blood or to absorb blood. Contaminated waste materials will be disposed of immediately after use in appropriate covered contaminated-waste containers.
- l) The completed tattoo or body piercing shall be washed with a piece of sterile gauze or cotton saturated with an EPA or FDA approved or hospital grade germicidal solution. It shall be allowed to air dry. After drying, antibacterial ointment shall be applied to a tattoo from a collapsible metal or plastic tube and the entire area covered with a bandage. Piercings shall be treated with an antiseptic liquid such as, but not limited to, isopropyl alcohol.

Section 8: Sanitation and Sterilization Procedures

- a) All multi-use, non-disposable instruments used for tattooing or body piercing shall, including needle tubes, shall be cleaned and sterilized. Items shall be cleaned manually, rinsed with water, and dried with a paper towel. The use of an ultrasonic unit, used according to the manufacturer's instructions, may be substituted for manual cleaning. After cleaning and drying, all non-disposable instruments shall be packed in sterilization pouches in accordance with manufacturer's instructions. Each pouch of equipment should be evaluated following the autoclave cycle to ensure that the pouch indicator shows proof of sterilization. The date of sterilization shall be written on the package.
- b) The sterilizer shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of its sterilization unit must be available for inspection by the Department. Sterilization must be attained in an autoclave, operating at 121 degrees Celsius (250 degrees Fahrenheit) with a pressure of at least 15 pounds per square inch for no less than 30 minutes after the chamber of the autoclave has been evacuated of air and has reached the required temperature, or as specified in the manufacturer's operator's manual. Other methods of sterilization may be used if prior approval from the Department has been obtained.
- c) If a body art establishment utilizes an autoclave, the operator must demonstrate that the sterilizer is functioning as designed with a biological indicator test, such as spore strips or spore suspensions.
 - i. Operators must perform monthly tests of the device. If the autoclave is not used every month, a different schedule may be arranged with Department approval. Biological indicator tests shall be included with a typical sterilizer load.
 - ii. Biological indicator tests must be verified through an independent laboratory. The testing laboratory's written guidelines for the proper handling and placement of the biological indicator shall be readily available. Spore test results shall be maintained at the facility for review by the Department as requested. The results must identify the equipment being tested with the device manufacturer and identification or serial number. Sterilizing equipment that fails testing shall be immediately taken out of service and the Department shall be notified of the failure no later than the following business day.
 - iii. The Department may perform a sterilizer test on any equipment prior to its use in an establishment and during any inspection. No sterilization equipment that fails the

Department test shall be used until proof of maintenance and a new passing test is provided to the Department.

- d) If the establishment uses all single-use, disposable instruments and products, and utilizes sterile supplies, a sterilizer may not be required. If pre-sterilized equipment is used, the body artist shall obtain documentation from the manufacturer that describes the method of sterilization utilized by the manufacturer and the manufacturer's recommendations for storage and maintenance of sterility. This documentation shall be available for review by the Department.
- e) Sterile instruments shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments. Sterilized equipment stored in an approved manner shall be considered sterile as long as the integrity of the sterile package is intact. All sterile instruments shall remain in sealed sterile packages until just prior to performing a body art procedure. Prior to assembling instruments for use in performing body art procedures, the body artist shall wash their hands and put on disposable gloves. The body artist shall use techniques to ensure that the instruments are not contaminated.
- f) All work surfaces shall be sanitized with an EPA registered disinfectant between and following any procedure; surfaces will be allowed to air-dry. Contaminated waste shall be disposed of in accordance with Federal, State, and local laws. Sharps shall be disposed of in sharps containers, in accordance with in accordance with Federal, State, and local laws.

Section 9: Report of Infection or Allergic Reaction

- a) The body art establishment shall provide a written report of any infection, allergic reaction, complications, and/or diseases resulting from the application of a tattoo or body piercing to the Department within 72 hours of its occurrence or knowledge thereof. The Department shall utilize these reports in their efforts to identify the source of the adverse reaction(s) and to take action to prevent its recurrence. The report shall include:
 - i. The names of the body art establishment and the body artist who completed the procedure,
 - ii. The name of the affected patron and the date of the procedure;
 - iii. A copy of the consent form completed prior to the procedure;
 - iv. The location of the infection and the location on the body where the tattoo or body piercing was applied;
 - v. The specific color(s) of the tattoo and, when available, the manufacturer's catalogue or identification number of the color(s) used;
 - vi. The name and address of the health care provider, if any; and
 - vii. Any other information considered relevant to the situation.

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