Board of Health Regulations: Chapter 6

Body Art Establishment Regulation

SECTIONS:

6-0.010 Authority and Purpose.
6-0.020 Applicability.
6-0.030 Definitions.
6-0.040 Regulations, Rules, and Laws Adopted by Reference.
6-0.050 Licenses.
6-0.060 Plans, Construction, Sanitation, and Equipment.
6-0.070 Fees.
6-0.080 Health and Sanitary Requirements.
6-0.090 Temporary Orders.
6-0.100 Appeals.
6-0.110 Violation—Penalties.
6-0.120 Effective Date.

6-0.010 Authority and Purpose.

The Board of Health of the Eau Claire City-County Health Department was established jointly by the City of Eau Claire under s. 2.52.020 of the City of Eau Claire Code of Ordinances and by Eau Claire County under 2.52.020 of the Eau Claire County Code. The Board of Health of the Eau Claire City-County Health Department holds the authority to adopt regulations to protect and improve public health pursuant to s. 251.04(3) Stats. Under s. 463.16(1), Stats., the Department of Safety and Professional Services (DSPS) designated the Eau Claire City-County Health Department as an agent for issuing licenses to, collecting fees from, and making investigations or inspections of body piercing and tattoo establishments. Under s. 463.16(6), Stats., the Board of Health may adopt and impose regulations on licensees and premises for which the local health department is the designated agent, which are stricter than these chapters or rules adopted by the state.

6-0.020 Applicability.

The provisions of this regulation shall apply to tattoo establishments, body piercing establishments, and other body art establishments in the City and County of Eau Claire including all municipalities within Eau Claire County.

6-0.030 Definitions.

The following definitions shall apply in the interpretation and enforcement of this regulation.

A. "Board of Health" means the Eau Claire City-County Health Department Board of Health.
B. “Body art establishment” includes body-piercing establishments, tattoo establishments, and other body art establishments as defined in this regulation.
C. “Body piercing” means perforating any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.

D. “Body−piercing establishment” means the premises where a body piercer performs body piercing.
E. “Branding” means a form of body modification that involves applying extreme heat to the skin in order to create a burned image or pattern.
F. “Environmental Health Specialist” means a Registered Sanitarian/Registered Environmental Health Specialist by the State of Wisconsin or the National Environmental Health Association who is employed by the Eau Claire City-County Health Department.
G. “Health Department” means the Eau Claire City-County Health Department.
H. "Health Officer" means the director of Eau Claire City-County Health Department or that person’s authorized representative.
I. “Other body art establishment” means an establishment, premises or establishment where surface-anchoring, subdermal implanting, tongue bifurcation, branding, or scarification is performed.
J. “Other body art procedures” include surface-anchoring, subdermal implanting, tongue bifurcation, branding, or scarification.
K. “Scarification” means cutting an image into the skin and purposely irritating the wound to encourage scarring during the healing process.
L. “Subdermal implant” means a kind of body jewelry that is placed underneath the skin, therefore allowing the body to heal over the implant and creating a raised design.
M. “Supervising practitioner” means a body art practitioner licensed in the state where he or she practices and has at least 1 year of experience performing the technique the apprentice is learning.
N. “Surface-anchoring” also referred to as microdermal piercing or single point piercing means a type of piercing where jewelry is installed on a body surface.
O. “Tattoo,” as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.
P. “Tattoo establishment” means the premises where a tattooist applies a tattoo to another person.
Q. “Tongue bifurcation” also referred to as splitting or forking, means a type of body art in which the tongue is cut centrally from its tip to as far back as the underside base, forking the end.

6-0.040 Regulations, Rules, and Laws Adopted by Reference.
The applicable laws, rules, regulations set forth in s. 463, Stats., and Chapter SPS 221of the Wisconsin Administrative Code governing Tattooing and Body Piercing are incorporated in this regulation by reference which specifically apply to tattoo establishments and body piercing establishments and they shall be construed, read and interpreted as though fully set forth herein. The express provisions of this regulation shall control where more restrictive.

6-0.050 Licenses.
No person shall operate a body art establishment without first obtaining a license from the Health Department.

A. *License Posted.* Each body art establishment or temporary body art establishment shall have a separate license which shall be prominently displayed in the licensed establishment.

B. *Transferability.* Licenses are not transferable between persons, establishments, or to a location other than the one for which it was issued.
C. *Expiration.* Such licenses shall expire on June 30 following their issuance except that licenses issued under s. Chapter SPS 221.04(2)(a) for tattooing and piercing establishments and for other body art establishments or temporary body art establishments initially issued during the period beginning on April 1 and ending June 30 shall expire June 30 of the following year.
D. *State Practitioner's License.* All tattoo and body-piercing practitioners must hold a valid state practitioner's license under s. Chapter SPS 221.04(1)(b).
E. *Local Body Art Practitioner's License.* A separate license from the one required under s. Chapter SPS 221.04(1)(b) is required for practitioner who performs tattooing, body-piercing, dermal piercing, subdermal implanting, tongue bifurcation, branding, or scarification in the City of Eau Claire or Eau Claire County. Such licenses shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year. To be eligible for a practitioner's, a person must:
    1. Be 18 years of age or older.
    2. Pay a licensure fee.
    3. Provide proof that he or she attended an approved training on bloodborne pathogens and infection control within the last 24 months.
    4. Provide an affidavit, signed by the supervising practitioner, of at least 200 hours of experience gained under the direct supervision of a licensed body art practitioner who practices the same skill for which the person seeks licensure.
F. *Conditional License.* The issuance of a license, for any reason, may be conditioned upon the licensee correcting a violation of this regulation within a specified period of time not to exceed six months.
G. *Preinspection Required.* A license shall not be granted to a person intending to operate a new body art establishment or to a person intending to be the new operator of an existing body art establishment without a preinspection.
H. *License Suspension and Revocation.* Licenses issued under this regulation may be temporarily suspended by the Health Officer for a violation of any provision of this regulation, or rules adopted by reference by this regulation, which creates an immediate danger to health. Such licenses may be revoked after repeated violations. The licensee shall have an opportunity for a hearing as provided in s. 6-0.100 of this regulation.
I. *Application.* Applications for licenses shall be made in writing to the Health Department or such other office as designated by the Health Department on forms provided, stating the name and address of the applicant and the address and location of the proposed body art establishment. The Health Department shall, within 15 business days of the receipt of a completed application, act upon the application by denying or granting the license.

6-0.060 Plans, Construction, Sanitation, and Equipment.

One copy of scaled floor plans, an equipment list with specification sheets, and the intended scope of practice for new structures or major remodeling of present structures shall be submitted for approval to the Health Department, along with the plan review fee as required in section 6-0.070D of this regulation, in advance of construction.

6-0.070 Fees.

The Board of Health has the authority to set and impose fees for services pursuant to s. 463.16(4), Stats.

A. *License Fees.* The fees for the licenses shall be established by the Board of Health to cover part or all of the cost of issuing licenses, making investigations, inspections, sampling, sample testing, providing education, training and technical assistance to the establishments, plus the cost required to be paid to the state for each license issued.
    1. The fees for licenses shall be established separately for each type of body art establishment.
    2. If the annual renewal fee is not received on or before the license expiration date, late fees shall be issued pursuant to s. 6-0.050B. Additionally, establishments operating 15 calendar days after the expiration will be closed by order of the Health Officer.

B. *Late and Penalty Fees.* Late fees shall be required, as established by the Board of Health, for each license if the renewal fee is not paid before the license expires.
    1. The license fee must be paid or post-marked by June 30th each year regardless of whether the license renewal was received.
    2. Fees/payments received and returned by the financial institution for insufficient funds are subject to a fee, as established by the Board of Health.
    3. Operators and practitioners found to be operating without a valid license shall be subject to an initial license fee as well as a penalty fee equal to that of the license fee.

C. *Reinspection Fees.* Reinspection fees shall be established by the Board of Health.
    1. A reinspection will be performed when an imminent hazard is identified during an inspection or onsite visit and is not correct before the inspector leaves.
        a. An imminent hazard shall be defined by the Wisconsin Department of Health Service's publication titled, "Reinspection Criteria for Tattoo and Body Piercing Establishments."
        b. A reinspection fee will be assessed for a second and each successive reinspection stemming from the same complaint or routine inspection.
    2. A reinspection fee will be immediately assessed when any violation is repeated on three consecutive inspections or onsite visits.
    3. A reinspection fee will be immediately assessed when an inspection is unable to be completed due to an establishment refusing entry to a properly identified Environmental Health Specialist.
    4. Reinspection fees will be assessed for every required reinspection completed until such time as the inspection is able to be fully completed or the violation ceases to exist.
    5. The Health Department will generate an invoice for a reinspection fee after the billable reinspection is completed.
    6. The Health Department may not issue or renew a body art establishment license until all fees due under this regulation are paid in full.

D. *Plan Review Fees.* Plan review fees shall be established by the Board of Health to cover part or all of the cost to review plans for new construction or extensive remodeling of a body art establishment. Operators found to have built new or extensively remodeled

without a plan review submission and approval shall be subject to a plan review fee as well as a penalty fee equal to that of the plan review fee.

E. *Preinspection Fees.* An inspection fee is required for the initial inspection of new or existing establishments for which a person intends to be a new operator. Such fees shall be established by the Board of Health.

6-0.080 Health and Sanitary Requirements.

All body art establishments, including tattoo establishments, piercing establishments, and other body art establishments, are subject to the following sanitation requirements.

A. *Patron Limitations.*
   1. *Consent.* A body art practitioner may not tattoo or body pierce a patron without first obtaining the signed, informed consent of the person on a form approved by the department.
   2. *Minors.*
      a. No person under 16 years of age may be body pierced.
      b. No person age 16 or 17 may be body pierced unless an informed consent form has been signed by his or her parent or legal guardian in the presence of the operator.
      c. No person under 18 years of age may be tattooed except by a physician in the course of the physician's professional practice, as permitted under s. 948.70 (3), Stats.
      d. No person under 18 years of age may undergo any of the procedures defined under 6-0.030(J) "other body art procedures" in the regulation.
      e. A body−piercing establishment shall post a notice in a conspicuous place in the establishment stating that it is illegal to body pierce a person under the age of 18 without the signed, informed consent of that person's parent or legal guardian.
      f. A tattoo establishment shall post a sign in a conspicuous place in the establishment stating that no person under the age of 18 may be tattooed.
      g. An establishment which performs any of the procedures defined under 6-0.030(J) "other body art procedures" in the regulation shall post a sign in a conspicuous place in the establishment stating that no person under the age of 18 may have the identified procedure.
   3. *Barriers to procedure.* A body art practitioner may not perform a procedure on any of the following:
      a. A person who appears to be under the influence of alcohol or a mind−altering drug.
      b. A person who has evident skin lesions or skin infections in the area of the procedure.

B. *Patron Records.*
   1. Every body art practitioner shall keep a record of each patron. A patron's record shall include the patron's name, address, age and consent form, the name of the practitioner doing the procedure and any adverse effects arising from the procedure.
   2. A patron's record shall be retained for a minimum of 2 years following completion of the procedure.

C. *Physical Facilities and Environment*.

1. Floors in the area where body art procedures are performed shall be constructed of smooth, durable and non−porous material and shall be maintained in a clean condition and in good repair. Carpeting is prohibited.
2. Walls and ceilings in the area where body art procedure procedures are performed shall be light−colored, smooth and easily cleanable.
3. Body art procedure areas shall maintain a minimum illumination of 50 footcandles.
4. The premises and all facilities used in connection with the premises shall be maintained in a clean, sanitary and vermin−free condition.
5. Body art procedure areas shall be completely separated from any living quarters by floor−to−ceiling partitioning and solid doors which are kept closed during business hours. A direct outside entrance to the body art establishment shall be provided.
6. All body art procedure establishments shall have a public toilet and handwashing facility which is separated from any living area.
7. Toilet room fixtures shall be kept clean and in good repair. An easily cleanable covered waste receptacle shall be provided in the toilet room.
8. At least one handwashing facility shall be conveniently located in the body art area, in addition to what is provided in the toilet room.
9. Anti−bacterial soap in a dispenser and single−service towels for drying hands shall be provided at all handwashing facilities.
10. Hot and cold potable water under pressure shall be available at all handwashing facilities except that tempered water rather than hot water may be provided.
11. Easily cleanable waste containers with non−absorbent, durable plastic liners shall be used for disposal of all tissues, towels, gauze pads and other similar items used on a patron.
12. Infectious waste, including sharps waste, shall be stored and disposed of in an approved manner consistent with subch. II of ch. NR 526.
13. Instruments, dyes, pigments, and other body art procedure equipment shall be stored in closed cabinets exclusively used for that purpose.
14. A panel or other barrier of sufficient height and width to effectively separate a patron on whom a procedure is being performed from any unwanted observers or waiting patrons shall be in place or readily available at the patron's request.
15. No smoking or consumption of food or drink is permitted in the area where a body art procedure is performed, except that clients may consume a non−alcoholic beverage during the procedure.
16. No animals, except for those that provide services to persons with disabilities, are permitted in a body art establishment.

D. *Personnel*.

1. No body art practitioner with an exposed rash, skin lesion or boil may engage in the practice of tattooing or body piercing.
2. No body art practitioner may work while under the influence of alcohol or a mind−altering drug.

3. Body art practitioners shall thoroughly wash their hands and the exposed portions of their arms with anti−bacterial soap in a dispenser and tempered water before and after each body art procedure and more often as necessary to keep them clean.
4. Body art practitioners shall dry their hands and arms with individual single−service towels.
5. Body art practitioners shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices during procedures.
6. All Body art practitioners shall wear clean, washable outer clothing.
7. When preparing the skin and during a procedure, a body art practitioner shall wear non−absorbent gloves which shall be disposed of after completing the procedure.
    a. If interrupted during a procedure, a body art practitioner shall rewash his or her hands and put on new gloves if the interruption required use of hands.
8. Body art practitioners shall use single−use plastic covers to cover spray bottles or other reusable accessories to minimize the possibility of transmitting body fluids or disease during procedures to successive patrons.

E. *Equipment, Instruments and Supplies*.
1. All surfaces, counters and general−use equipment in the body art area shall be cleaned and disinfected before a patron is seated.
    1. All inks and pigments shall be obtained from sources generally recognized as safe. Information indicating the sources of all inks and pigments shall be available the department or agent upon request. No pigment or ink in which needles were dipped may be used on another person. Pigment and ink cups shall be for single−patron use. No ink caps may be refilled. All bulk materials used for the procedure shall be dispensed with single−use utensils. The remainder of dispensed portions shall be disposed of after application.
2. Tubes shall be constructed in a manner that permits easy cleaning and sterilizing.
3. Stencils and marking instruments shall be single−use.
4. Disposable−type razors shall be for single−use only and disposed of in accordance with ch. NR 526. Electric razors used for skin preparation prior to a procedure shall have screens cleaned and disinfected between patron use.
5. Tattoo and body−piercing needles shall be disposable, sterile and for single−patron use only.
6. Body piercing jewelry shall be cleaned and sterilized prior to use.
7. Scarification procedures shall only use disposable sterilized surgical instruments. Jagged or serrated instruments are prohibited.

F. *Jewelry used for Initial Piercings*.
1. Jewelry used for initial piercing must be made of one of the following:
    a. Steel that is ASTM F138 compliant or ISO 5832-1 compliant or steel that is ISO 10993-6, 10993-10, and/or 10993-11 compliant.
    b. Titanium that is ASTM F136 or ASTM F67 compliant or ISO 5832-3 compliant.
    c. Solid 14 karat or higher nickel-free white or yellow gold.
    d. Solid nickel-free platinum alloy.
    e. Niobium (Nb).

f. Fused quartz glass, lead-free borosilicate or lead-free soda-lime glass.
g. Polymers (plastics) as follows:
    i. Tygon Medical Surgical Tubing S-50HL or S-54HL
    ii. Polytetrafluoroethylene (PTFE) that is ASTM F754-00 compliant
    iii. Any plastic material that is ISO 10993-6, 10993-10 and/or 10993-11 compliant and/or meets the United States Pharmacopeia (USP) Class VI material classification.

2. All threaded or press-fit jewelry must be internally threaded.
3. For body jewelry, surfaces and ends must be smooth, free of nicks, scratches, burrs, polishing compounds and metals must have a consistent mirror finish.

G. *Cleaning*.

1. After each use, equipment shall be cleaned to remove blood and tissue residue before sterilization.
2. Reusable equipment shall be placed in a covered stainless steel container of cleaning or disinfectant solution until they can be cleaned and sterilized.
3. All containers and container lids holding contaminated tubes and reusable equipment shall be cleaned and disinfected at least daily.
4. A tattoo machine shall be cleaned and disinfected before each use.
5. Gloved personnel shall clean reusable tubes and other reusable equipment prior to sterilization by doing all of the following:
    a. Manually pre−cleaning the items with care taken to ensure removal of residue; thoroughly rinsing the items with warm water and then draining the water; cleaning the items by soaking them in a protein−dissolving detergent−enzyme cleaner used according to manufacturer's instructions.
    b. Cleaning the items further in an ultrasonic cleaning unit which operates at 40 to 60 hertz and is used according to the manufacturer's instructions.
    c. Rinsing and drying the items.
6. Prior to autoclaving, all tubes and reusable equipment shall be packaged either individually or in quantities appropriate for individual procedures.
7. Packages shall be identifiable and dated.

H. *Sterilization*.

1. Equipment requiring sterilization shall be pressure−sterilized at the establishment in an autoclave and in accordance with the manufacturer's instructions.
2. Each batch of sterilized equipment shall be monitored for sterilization by use of heat−sensitive indicators capable of indicating approximate time and temperature achieved.
3. Autoclaves shall be spore−tested at least monthly. Spore kill test effectiveness shall be conducted by an independent laboratory.
4. Sterilized equipment shall be wrapped or covered and stored in a manner which will ensure that it will remain sterile until used.
5. Each body art establishment shall maintain sterilization records including spore tests for at least one year from the date of the last entry, which shall include the following information:
    a. Date of sterilization.
    b. Name of the person operating the equipment.
    c. Result of heat−sensitive indicator.

6. Sterilized equipment shall be re−sterilized if the package is opened, damaged or becomes wet.
7. All methods of sterilization other than autoclaving are prohibited.

I. *Preparation by the Practitioner*. Before beginning a procedure, the body art practitioner shall clean the skin area for the tattooing or piercing and then prepare it with an antiseptic. The solution shall be applied with cotton, gauze or single−use toweling.

J. *After Care*.
1. After the procedure is completed and if a dressing is to be used, the dressing must be a non-stick, non-occlusive dressing.
2. Patrons undergoing any body art procedure under this regulation shall be provided with printed instructions regarding care during the healing process. The written instructions shall provide information on:
    a. Proper cleansing of the area.
    b. Consulting a health care provider for any of the following:
        i. Unexpected redness, tenderness or swelling at the site of the body art procedure.
        ii. Any rash.
        iii. Unexpected drainage at or from the site of the body art procedure.
        iv. A fever within 24 hours of the body art procedure.
    c. The name, address and phone number of the establishment.

K. *Temporary establishments.* In addition to requirements under this regulation that apply to all establishments, the following requirements apply specifically to temporary establishments:
1. No temporary establishment may be operated without a license granted by the department or its agent.
2. No temporary license may be issued without a prior inspection.
3. A temporary establishment's license along with the license of each on−staff body art practitioner shall be conspicuously displayed in the temporary establishment.
4. An operator of a temporary establishment whom the department or its agent has found to repeatedly violate any provision of this chapter may be denied a license to operate the establishment or may have the license revoked.
5. A temporary establishment shall have all of the following fixtures:
    a. An approved toilet and handwashing facility.
    b. Potable water under pressure.
    c. Hot or tempered water for handwashing and cleaning.
    d. Connection to an approved sewage collection system.

6-0.090 Temporary Orders.

Pursuant to ss. 227.51(3) and 250.04(1) and (2)(a), Stats., whenever the Health Department has reasonable cause to believe that an immediate danger to health or safety exists as a result of an inspection, the department or agent may issue a temporary order without advance notice or hearing to do any of the following:

A. *Prohibition.* Prohibit the continued operation or method of operation of specific equipment.
B. *Remedy Required.* Require the establishment to cease operations and close until remedies are applied which eliminate the immediate danger to health or safety.

C. *Cease Activity.* Require a body art practitioner to cease licensed activities.

6-0.100 Appeals.
Appeals of Health Department orders shall be pursuant to Health Department policy adopted in conformance with the procedures for conducting appeals enumerated in s. 68, Stats. Copies of the appeal procedures shall be available at the Health Department.

6-0.110 Violation—Penalties.
Any person who violates or refuses to comply with any provisions of this regulation shall be subject to a citation under s. 1.24.010 of the City of Eau Claire Code of Ordinances and s. 1.50.010 of the Eau Claire County Code. Each day a violation exists or continues shall be considered a separate offense. Citations shall be issued in the City of Eau Claire under Chapter 1.24 of the City of Eau Claire Code of Ordinances and in Eau Claire County under Chapter 1.50 in the Eau Claire County Code and the issuance shall follow the procedures therein. Injunctive relief may be sought by the Health Department against continuing violations.

6-0.120 Effective Date.
All regulations and parts of regulations in conflict with this regulation are hereby repealed; and this regulation shall be in full force and effect on July 1st, 2016.

By order - Eau Claire City-County Board of Health

Dated this 22nd day of June, 2016.