

**ORDINANCE NUMBER 33, 2016**

**Erie County Department of Health Body Art Establishment Regulations,  
Amending Ordinance 152, 2008**

BE IT ENACTED by the County Council of the County of Erie pursuant to Article II, Sections 1C(1) and 3B(2)(f) of the Erie County Home Rule Charter and 16 PA Consolidated Stat. §12001 et seq. that these "Erie County Department of Health Body Art Establishment Regulations", which are an amendment to Ordinance Number 152, 2008, are hereby approved as outlined on the attached Exhibit A.

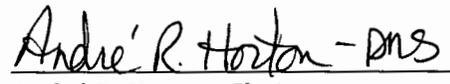
This ordinance shall be effective immediately upon adoption.

COUNTY COUNCIL OF THE  
COUNTY OF ERIE, PENNSYLVANIA

Attest:

  
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Douglas R. Smith  
County Clerk

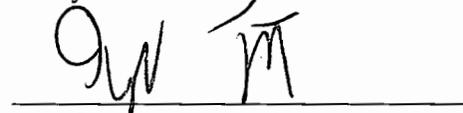
Date: May 17, 2016

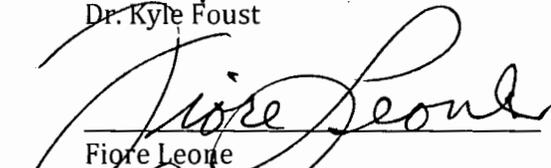
  
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André R. Horton, Chairman

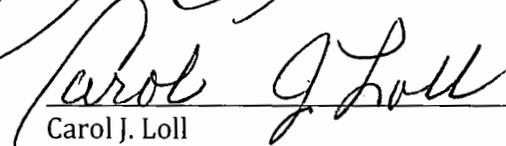
  
\_\_\_\_\_  
Jay Breneman, Vice Chairman

  
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Edward T. DiMattio, Jr.

  
\_\_\_\_\_  
Kathy Fatica

  
\_\_\_\_\_  
Dr. Kyle Foust

  
\_\_\_\_\_  
Fiore Leone

  
\_\_\_\_\_  
Carol J. Loll

Approved by:

  
\_\_\_\_\_  
Kathy Dahlkemper,  
County Executive

Date: May 18, 2016

**ORDINANCE NUMBER 152, 2008**

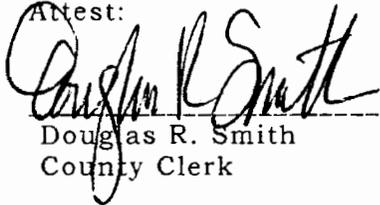
**Amending Ordinance 126, 2006, "Department of Public Health Establishment of License Fee and Regulation of Body Art Establishments"**

**BE IT ENACTED** by the County Council of the County of Erie pursuant to Article II, Sections 1C (1) and 3B (2) (e) of the Erie County Home Rule Charter and 16 PA Stat. ss.12001 et seq. that this amendment to Ordinance Number 126, 2006 "Department of Public Health Establishment of License Fee and Regulation of Body Art Establishments" is hereby approved as outlined on the attached Exhibit A.

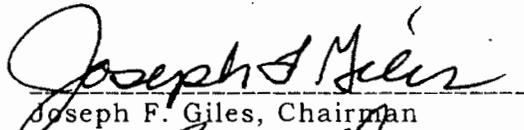
This ordinance shall be effective immediately upon adoption.

COUNTY COUNCIL OF THE  
COUNTY OF ERIE, PENNSYLVANIA

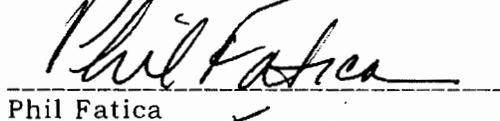
Attest:

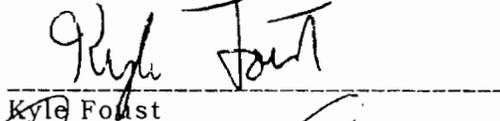
  
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Douglas R. Smith  
County Clerk

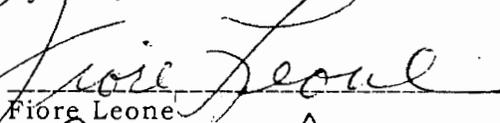
Date: September 2, 2008  
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Joseph F. Giles, Chairman

  
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Ronald G. Cleaver, Vice Chairman

  
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Phil Fatica

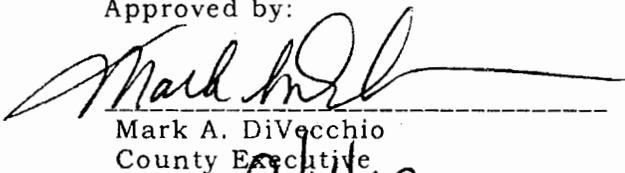
  
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Kyle Foust

  
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Fiore Leone

  
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Carol J. Loll

  
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David E. Mitchell

Approved by:

  
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Mark A. DiVecchio  
County Executive

Date: 9/4/08  
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# ERIE COUNTY DEPARTMENT OF HEALTH

ecdh.org



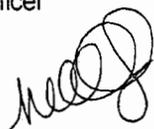
Melissa C. Lyon, MPH  
Director

Kathy Dahlkemper  
County Executive

Date: April 18, 2016

TO: James Sparber, Director  
Erie County Finance Department

CC: Kathy Dahlkemper, County Executive  
Gary Lee, Director of Administration  
Sue Ellen Pasquale, Manager of Finance  
Jennifer Ertl, Accounting Specialist  
Karen Tobin, Director, Environmental Health  
Chelsey Ricketts, ECDH Fiscal Officer

FROM: Melissa C. Lyon, MPH, Director  
Erie County Department of Health 

RE: Request for Ordinance for Revisions to Erie County Department of Health Body Art Establishment Regulations

Ordinance Number 152, 2008 established the current Erie County Department of Health's Regulations Governing Operation and Conduct of Body Art Establishments. Due to changes in the industry, the Department determined that it is necessary to make revisions to the existing regulations. We are requesting approval of the attachment: Erie County Department of Health Body Art Establishment Regulations.

Thank you for your support and assistance. If you have any questions, please contact me at ext. 6701.

**ERIE COUNTY DEPARTMENT OF HEALTH**

**BODY ART ESTABLISHMENT**

Name of document  
changed from  
"Regulations  
Governing Operation  
and Conduct of Body  
Art Establishments"

**REGULATIONS**

New, 2008 regulations did not include listing of contents.

1. Legal Authority
2. Scope
3. Definitions
4. License
5. Tattoo/Body Piercing Artist
6. Facility Requirements
7. Equipment
8. Customer Education
9. Consent and Prohibitions
10. Exemptions
11. Waste Disposal
12. Records
13. Penalties
14. Severability

Sections 1 and 2 have both been added to this document, absent from 2008 regulations.

1. **Legal Authority**

The following regulations are adopted under the provisions of the “Local Health Administration Law”, Act 315, approved August 24, 1951, P.L. 1304, 16 P.S. §12001 *et seq.*

2. **Scope**

These regulations establish definitions and set standards for body art establishments in Erie County, Pennsylvania, and are created to promote and protect public health.

3. **Definitions**

New definitions denoted with an asterisk, modified definitions are underlined.

\*Aftercare – Verbal and written instructions given to the customer, specific to the body art procedure(s) performed, on caring for the body art and the surrounding area.

\*Antiseptic – Of, relating to, or denoting substances that prevent the growth of disease causing microorganisms.

Body Art – The practice of physical body adornment including the following techniques: body piercing, permanent cosmetics, and tattooing. Also includes body art procedures including subdermal implants, suspension, scarification, and tongue splitting.

Body Art Establishment – Any room or space where body art is practiced or conducted.

Body Piercing – The process of puncturing or penetrating the skin or mucous membrane for the purpose of insertion of any object.

Department – The Erie County Department of Health.

Equipment – All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in conjunction with the operation of a body art establishment.

\*Handwashing Sink – A sink equipped with hot and cold running water under pressure, used solely for washing hands and arms.

Hot Water – Water which is at a temperature of not less than 100°F.

Infectious Waste – Waste generated in the treatment or service of a human which falls under one or more of the following categories:

- (1) Pathological Waste – Human pathological wastes, including tissues that are removed during medical procedures. The term does not include hair, nails, or extracted teeth.
- (2) Human blood and body fluid waste including liquid waste, human blood, blood products, items contaminated with blood or dried human blood.

(3) Used Sharps – Needles, scalpel blades, suture needles, broken or unbroken glass or plastic ware, disposable razors, and other sharp objects that have cut or pierced the skin or have been in contact with infectious agents.

Municipal Waste – Garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments and from community activities.

\*Permanent Cosmetics – The implanting of inert pigments, colors or dyes intra-dermally which results in permanent alteration of tissues to gain a cosmetic effect.

\*Premises – The physical facility, its contents, and the contiguous land or property under the control of the licensee that may impact the body art establishment personnel, facilities, or operations.

\*Scarification – Scratching, etching, burning/branding, or superficially cutting designs, pictures or words into the skin as a permanent body modification.

Sterilization – The process by which all forms of microbial life, including bacteria, viruses, and spores, are destroyed by physical or chemical means.

\*Subdermal Implant – An object that is entirely placed underneath the skin, therefore allowing the body to heal over the implant and creating a raised design.

\*Suspension – The act of suspending a human body from hooks that have been put through body piercings. These piercings are temporary and are performed just prior to the actual suspension.

Tattoo – The indelible mark, figure or decorative design introduced by insertion of nontoxic pigments into or under the skin of a human being.

\*Tattoo/Body Piercing Artist – The person who actually performs the work of body art.

Tattooing – The process of placing nontoxic pigment into or under the skin or mucosa by the aid of needles or any other instrument which results in an indelible mark.

Temporary Body Art Establishment – A body art establishment that operates at a fixed location in conjunction with a single event or celebration.

\*Tongue Splitting – A type of body modification in which the tongue is cut centrally from its tip to as far back as the underside base, forking the end.

#### 4. License

This section is new; requirement of application was not in 2008 regulations.

##### (a) Application and Plan Submission

Any person desiring to operate a body art establishment in Erie County shall make written application for a License on forms provided by the Department. Such application shall be submitted prior to any construction, remodeling, change of ownership or operation of a body art establishment.

##### (b) General Requirements

Revised, Sections 4(b)1-6 were prev. section 2

1. No person shall operate a body art establishment in Erie County without a valid License issued by the Department.
2. Licenses are not transferable.
3. Licenses must be renewed annually and are valid for one year after date of issuance.
4. Licenses must be posted in a location in the body art establishment that is conspicuous to customers and the Department.
5. A License shall not be issued or renewed unless the establishment is found to be in compliance with all requirements of these regulations and all applicable fees are paid.
6. The Department shall be allowed access for inspection to determine compliance with these regulations during the establishment's hours of operation.
7. Immediately discontinue operations and contact the Department if an imminent health hazard exists such as fire, flood, extended interruption of water service, sewage backup, gross unsanitary condition, or other circumstance that may endanger public health.
8. The Department is to be notified when an establishment goes out of business.

New 4(b) 7 & 8

##### (c) Temporary License

This section is new; specific information regarding temporary licensing was not in 2008 regulations.

1. Any person desiring to operate a body art establishment in Erie County at a temporary event such as a fair or festival shall make written application for a Temporary License on forms provided by the Department. Such application shall be submitted prior to the event and prior to operation.
2. The establishment must be in compliance with the Department's Guidelines for Temporary Body Art Establishments and all applicable fees shall be paid before a Temporary License is issued.

## 5. Tattoo /Body Piercing Artist

### (a) General Requirements

Revised, prev.  
Section 3

1. No person with boils, infected wounds, open sores, acute respiratory infection or other communicable disease or condition, nausea, vomiting, or diarrhea shall work in any area of a body art establishment where there is likelihood of contaminating equipment, supplies or work surfaces.

New

2. Artists shall not eat, drink, or use any form of tobacco in any area where contamination of equipment and supplies could occur.

Revised, prev.  
Section 7

3. Artists shall not perform any body art if they are impaired by drugs or alcohol.

Revised, prev.  
Section 6(g)(1)

4. Body art procedures shall be performed only on a healthy skin surface. No body art shall be performed on skin surfaces which have any rash, pimples, boils, infections or any other evidence of an unhealthy condition.

Revised, prev.  
Section 3

5. Prior to starting each procedure or handling equipment, artists must thoroughly wash their hands, forearms and nails using soap and warm running water. Hands must be dried with a disposable paper towel.

6. Disposable gloves shall be worn for any procedure involving contact with a customer's skin, hair, or other body tissue. When sessions are interrupted or immediately after gloves are torn, gloves shall be removed and discarded and hands shall be washed and a fresh pair of gloves used.

Revised, prev.  
Section 6(f)

7. All soaps, inks, dyes, pigments, ointments, and other products shall be dispensed and applied using an aseptic technique and in a manner to prevent contamination of the original container and its contents. Applicators shall be single use.

Revised, prev.  
Section 6(g)

8. If the skin is to be shaved, it must first be washed with soap and water. Single use disposable safety razors for each patron shall be used for preparation of the area to be tattooed. After shaving, the area shall be prepared by washing with soap and water or by wiping with an alcohol solution.

Revised, prev.  
Section 6(h)

9. After completing tattoo work on any person, the area shall be washed with a clean, absorbent disposable material saturated with an approved antiseptic solution. The area shall be allowed to air dry and a cream or lotion is to be applied using clean, absorbent disposable material. A dressing shall then be affixed over the area.

New

10. Prior to a procedure, the area of the customer's body to be pierced shall be thoroughly cleaned, then prepared with an antiseptic solution that is applied with a clean, absorbent disposable material. In the case of oral piercings, the patron shall be provided with alcohol-free antiseptic mouthwash in a single use cup and shall ensure that the customer utilizes the mouthwash provided to thoroughly rinse the affected area. In the case of a lip, labret, or cheek piercing, procedures described in this paragraph for both skin and oral piercings shall be followed.

## Training

Revised, prev.  
Section 4(5)

1. No person shall practice body art within Erie County without first providing documentation to the Department that they have attended a bloodborne pathogen course approved by the Department within the current year.
2. Bloodborne pathogen course certificates must be posted in a location in the body art establishment that is conspicuous to customers and the Department.

## 6. Facility Requirements

Sections 6  
(a) and (b)  
have both  
been added  
to this  
document,  
absent from  
2008  
regulations.

### (a) Water Supply

All water supplied to a body art establishment shall be from a source approved by the Department. An adequate quantity of water shall be provided for operations.

### (b) Sewage

All sewage shall be disposed through a system that is approved by the Department.

### (c) Physical Facilities

Revised  
Sections 6  
(c) 1 and  
3; prev.  
Section 5

1. All body art establishments shall be separated from any room used for human habitation, a food establishment, or other such activity which may cause potential contamination of work surfaces.
2. Floors, walls, and ceilings in work areas and restrooms shall be smooth, durable, easy to clean and kept clean and in good repair.
3. Restrooms shall be adequate, conveniently located, and available during working hours for all persons working in the establishment and shall comply with applicable ordinances, codes, and regulations. Restrooms shall be supplied with hot and cold running water, soap, disposable paper towels, and a covered waste receptacle.
4. Adequate lighting shall be provided in the areas where body art is performed.
5. Adequate ventilation shall be provided.
6. Effective measures shall be taken to protect against the entrance and breeding or presence of insects and rodents.
7. No live animals shall be kept or allowed in any room where body art is performed except service animals.

Sections 6 (c)  
2, 4-7 have  
been added to  
this  
document,  
absent from  
2008  
regulations.

(d) Handwashing Sink

Revised  
Section 6  
(d); prev.  
Section 5

1. A handwashing sink with hot and cold running water shall be located in the area where body art is performed and shall be for the exclusive use of the artist for handwashing and preparing the customer. This sink must not be used for dumping of waste or cleaning of equipment.
  - a. This sink must be in addition to a restroom handwashing sink.
  - b. Existing facilities without a separate handwashing sink shall be required to install one at the time of any remodeling or change of ownership.
2. The handwashing sink must be provided with soap, disposable paper towels, and water at a temperature of at least 100 °F through a mixing valve or combination faucet.

7. **Equipment**

New, Section  
7 is  
encompasses  
and enhances  
prev. Section  
6 (a-f, h)

(a) General Requirements

1. An area located away from work stations and areas frequented by the public is to be provided for the cleaning and/or sterilization of equipment. A sink with hot and cold running water must be provided.
2. All tables and other equipment shall be constructed of material that is smooth, nonabsorbent, and easily cleanable.
3. All inks and pigments used in tattooing shall be nontoxic, free from adulteration, from a safe source and used in accordance with the manufacturer's directions.

Revised,  
prev. 6(f)

(b) Sterilization Process

1. All non-disposable instruments or equipment used for body art procedures including bars, grips, and tubes, shall be thoroughly cleaned and sterilized after each use on any patron in the following manner:
  - a. Soaked to remove all gross debris
  - b. Rinsed and patted dry
  - c. Disassembled or placed in the open position, if hinged
  - d. Visually inspected to verify that they are clean and to identify any damage, including but not limited to, bends, cracks or pits, that would impair the sterilization process

- e. Thoroughly cleaned in warm water and an appropriate detergent capable of breaking down blood, ink, dyes, pigments and other contaminants
  - f. Placed in an ultrasonic cleaning unit filled with an appropriate solution specified in the manufacturer's instructions
  - g. Rinsed and air dried
  - h. Individually packed in sterilization pouches. Each pouch or its indicator shall be labeled with an expiration date not to exceed one (1) year.
  - i. Sterilized in an autoclave
2. All ultrasonic cleaning units and autoclaves shall be used, cleaned and maintained in accordance with the manufacturer's current instructions. The autoclave shall be maintained in proper working condition and records of any maintenance performed shall be kept for at least two years.
  3. If the body art establishment uses all single-use, disposable instruments and products, an autoclave shall not be required. All single-use, disposable tattooing and piercing instruments must be obtained pre-sterilized by the manufacturer. If packaging is opened, damaged, or past the expiration date, item must be discarded or sterilized as explained in section 7(b)1.

(c) Monitoring Sterilization

1. To ensure proper temperature for sterilization has occurred, temperature sensitive autoclave tape or autoclave bags with a chemical color indicator on the bag must be included every time the autoclave is used.
2. In addition, once a month a biological indicator/spore test must be included at the center of a load to confirm that the autoclave is providing sterilization.

(d) Storage

1. After sterilization, all equipment and instruments used for body art shall remain in the sterilization pouch, handled with newly gloved hands and stored in a clean, dry, closed cabinet, drawer, or other container reserved for such instruments or equipment.
2. Single-use, disposable instruments and products must also be stored in a clean, dry, closed cabinet, drawer or other container reserved for such instruments or equipment.

New

(e) Jewelry

1. Jewelry which has not been sterilized by the manufacturer and maintained in an individual factory sealed package or container is to be cleaned and sterilized following the procedures in 7(b)1 above.
2. Only sterilized jewelry made of ASTM F136 compliant titanium or ASTM F138 compliant steel, solid 14 karat or 18 karat white, rose or yellow gold, niobium, or platinum, shall be placed in a new piercing. Mill certificates for jewelry shall be maintained at the body art establishment.
3. Substandard jewelry such as that which is damaged, scratched, not expressly designed for body piercing, jewelry made of silver, gold plated or filled or other corrosive metal or threaded jewelry sixteen (16) gauge or thicker with external threads shall not be used for initial piercing.
4. The body piercing operator will direct the customer to ensure that appropriate jewelry material, sizes and styles for the piercing are selected.

8. Customer Education

New

- (a) Before performing any body art, each customer shall be informed about the possible risks associated with the tattoo or piercing requested.
- (b) Prior to performing any body art, the artist shall inquire of a patron if they have conditions which could affect the healing process.

Revised, prev. Section 7

- (c) Verbal and written instructions for the care of the tattooed or pierced site shall be provided to each customer after completion of the procedure. The aftercare instructions for body piercing shall be appropriate for the area being pierced. These instructions shall include, but not be limited to, information about physical restrictions, wound care, signs and symptoms of infection, and when to seek medical treatment, if necessary. Aftercare instructions shall also include the name, address and phone number of the establishment and shall be made available to the Department upon request.
- (d) Artists must direct customers to consult a physician for any medical conditions that cannot be resolved by the establishment.

9. Consent and Prohibitions

Revised, prev. Section 7

- (a) It shall be unlawful for any person to perform body art on any person under 18 years of age without the presence, written consent and proper identification of the person's parent or legal guardian.

Revised, prev.  
Section 7

(b) It is prohibited to perform body art on a customer who is under the influence of alcohol or drugs.

New

(c) It is prohibited to perform body art procedures resulting in subdermal implants, suspension or scarification without a plan approved by Erie County Department of Health.

a. The plan shall include demonstration of compliance with these regulations; information regarding the risk and complications that may be associated with this procedure; and actions that would be taken to prevent or minimize risks to the health and safety of the client and the body artist.

(d) It is prohibited to perform tongue splitting on another person unless the tongue splitting is performed by a physician or dentist licensed in this Commonwealth.

#### 10. Exemptions

Revised, prev.  
Section 8

(a) Individuals who pierce only the lobe of the ear using a pre-sterilized, single-use stud and clasp ear piercing system (gun) are exempt from the requirements of these regulations.

(b) Medical practitioners licensed by the Commonwealth of Pennsylvania, and their employees who utilize tattooing or body piercing procedures as part of patient treatment are exempt from these regulations.

#### 11. Waste Disposal

(a) Municipal waste shall be kept stored in tightly covered waste containers. All waste containers shall be cleanable and kept clean. All waste materials are to be removed from the premises at least weekly and disposed of at an approved location

(b) Infectious waste such as used bandages, gauze, gloves or other disposable items which are or may be contaminated with blood or dried blood are to be placed in a closable, puncture-resistant, container specifically designed for that purpose which is leak-proof on the sides and bottom and labeled or color coded to identify the contents as a biohazard. These containers shall be transported and processed by an infectious waste transporter and disposed of at a site approved by the PA Department of Environmental Protection.

(c) Needles or any other sharp objects which may have come into contact with blood or blood products are to be placed in a closable, puncture-resistant, container specifically designed for that purpose which is leak-proof on the sides and bottom and labeled or color coded to identify the contents as a biohazard. These containers are to be transported and processed by an infectious waste transporter and disposed of at a site approved by the PA Department of Environmental Protection.

## 12. Records

New

### (a) Bloodborne Pathogen Course Certificates

Copies of bloodborne pathogen course certificates for every artist must be kept on file for at least two years.

### (b) Biological Indicator/Spore Tests

Documentation of autoclave performance shall be maintained for at least two years and shall include date and time the sterilizer load was run, name of the person operating the unit, results of sterilization and results of the biological indicator/spore test.

### (c) Consent forms

A record of each body art procedure shall be maintained for each customer. The records shall include name, signature, age, address and telephone number of customer; name, address and telephone number of parent or guardian, when required; description or photo of tattoo/piercing and location; date performed; and artist's name. Records shall be kept for at least two years.

### (d) Infectious waste disposal

Records from infectious waste transporters shall be kept for at least two years.

### (e) Availability

All records shall be made available to the Department upon request.

## 13. Penalties

Revised,  
Section 13  
&14, prev.  
Sections 9-11

### (a) Summary Offenses

Any person who violates any of the provisions of these regulations of the Erie County Department of Health, or who interferes with the Health Director or any other agent of the Erie County Department of Health in the discharge of his official duties, shall, for the first offense, upon conviction thereof in a summary proceeding before a Magisterial District Justice of Erie County wherein said offense was committed, be sentenced to pay the costs of prosecution and a fine of not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300), and in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

(b) Misdemeanors

Any person who violates any of the provisions of these regulations of the Erie County Department of Health, or who interferes with the Health Director or any other agent of the Erie County Department of Health in the discharge of his official duties, convicted of a second or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) or to undergo imprisonment not exceeding one (1) year, or both.

(c) Separate Offenses

Violations on separate days shall be considered separate offenses.

(d) Injunctions

The Erie County Department of Health may seek to enjoin violations of these rules and regulations or may proceed in any court of law or equity to obtain any additional cumulative remedies to abate any violation under these rules and regulations. Nothing in these rules and regulations shall in any way alter rights or action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil.

**14. Severability**

If any section, sub-section, paragraph, clause, or provision of these regulations shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these regulations as a whole or any part thereof. It is hereby declared to be the intention of the Erie County Department of Health, the Erie County Board of Health, and the Erie County Council that the remainder of the regulations would have been enacted if such invalid section had not been enacted and that it is their intent, intention and desire that the remaining portion of the regulations remain in effect.



**ERIE COUNTY  
DEPARTMENT OF HEALTH**

**REGULATIONS GOVERNING OPERATION AND  
CONDUCT OF BODY ART ESTABLISHMENTS**

July 2008

## 1. Definitions

- (a) Body Art – The practice of physical body adornment utilizing the following techniques: body piercing, tattooing, strike branding and cosmetic tattooing.
- (b) Body Piercing – The process of penetrating the skin or mucous membrane for the purpose of insertion of any object, including but not limited to jewelry for cosmetic purposes. The piercing of ears shall be excluded from the requirements of this ordinance.
- (c) Body Art Establishment – Any room or space where body piercing tattooing or cosmetic tattooing is practiced or conducted, including temporary body art establishments.
- (d) Body Art Operator – Any person who actually performs the work of body art.
- (e) Cosmetic Tattooing – The application of permanent makeup by micropigmentation including, but not limited to, eyeliner, lipliner, lipstick, and eyebrow enhancement.
- (f) Department – The Erie County Department of Health, the Director of the said Department, or any authorized representative thereof.
- (g) Equipment – All machinery, including fixtures, containers, vessels, tools, implements, furniture, display and storage areas, sinks, and other apparatus used in connection with tattooing and piercing operations.
- (h) Establishment – Any place or premise, whether public or private, where any person conducts any enterprise, occupation, vocation or business, whether or not for profit and whether temporarily or permanently located.
- (i) Facility Manager – Any person who controls, operates, conducts or manages any body art establishment, whether actually performing body art or not.
- (j) Hot Water – Water which is at a temperature of not less than 110°F nor greater than 125°F.
- (k) Infection – The entry and multiplication of any pathogen in the body of a human or animal.
- (l) Infectious Disease – A disease of humans or animals resulting from a transmissible infection, whether or not patent, apparent, inapparent, latent, clinical or subclinical.

- (m) Infectious Waste – Waste generated in the treatment or service of a human which falls under one or more of the following categories:
  - (1) Pathological wastes – Human pathological wastes, including tissues that are removed during medical procedures. The term does not include hair, nails or extracted teeth.
  - (2) Human blood and body fluid waste including liquid waste, human blood, blood products, items contaminated with blood or dried human blood.
  - (3) Used Sharps – Needles, scalpel blades, suture needles, broken or unbroken glass or plasticware, disposable razors, scalpel blades, and other sharp objects that have cut or pierced the skin or have been in contact with infectious agents.
- (n) Municipal Waste – Garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities.
- (o) Sterilization – Process of destruction of all forms of life by physical or chemical means.
- (p) Strike Branding – Applying strips of heated stainless steel to the skin to create a permanent scar in a designated pattern.
- (q) Tattoo – The indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin of a human being.
- (r) Tattooing – The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic, medical or figurative purposes.
- (s) Temporary Body Art Establishments – A body art establishment that operates at a fixed location in conjunction with a single event or celebration.

## **2. Body Art Establishment Certificate of Registration**

- (a) No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate a body art establishment unless it has received a body art establishment certificate of registration from the Department.
- (b) Any person operating a body art establishment shall obtain a certificate of registration from the Department annually.

- (c) The applicant shall pay per the fee schedule approved by the Department for each body art establishment certificate.
- (d) A certificate for a body art establishment shall not be transferable from one place or person to another.
- (e) A certificate shall automatically expire on December 31st of each year unless renewed by the Department upon the request of the licensee and payment of the fee.
- (f) A current body art establishment certificate of registration shall be posted in a prominent and conspicuous area where it may be readily observed by patrons.

### **3. Body Art Operator Requirements**

No person shall practice body art within the County of Erie without first providing documentation to the Department that they have attended a bloodborne pathogen course approved by the Department.

No person affected with any boils, infected wounds, open sores, acute respiratory infection or other communicable disease or condition, nausea, vomiting, diarrhea shall work in any area of a body art establishment in any capacity in which there is a likelihood of contaminating tattoo or body piercing equipment, supplies or work surfaces.

Prior to starting each body art procedure or handling the supplies for the procedure, the operator is to wash their hands, forearms and nails thoroughly with an antiseptic liquid soap or its equivalent. The operator's hands and forearms shall be dried with individual, single-use towels. Disposable single service surgical gloves shall be worn for any procedure involving contact with a customer's skin, hair, or other body tissue. If the operator or client is allergic to latex, they should use powderless or hypoallergenic gloves. Protective gloves shall be disposed of and hands shall be thoroughly washed after the procedure has been completed.

### **4. Criteria for Operating a Facility**

Each facility manager shall:

- (1) Post the valid body art establishment certificate of registration.
- (2) Comply with all the requirements of this regulation.
- (3) Allow the Department representative to inspect the facility when it is open for business.
- (4) Notify the Department in writing by mail or in person within 5 calendar days of closure of the facility. If the same owner reopens the facility while the license is still current, the facility operator is to inform the Department prior to resuming business.

- (5) Require that all body art operators in his employ receive bloodborne pathogen training that meets the requirements of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) Occupational Exposure to Bloodborne Pathogen Standard, 29 CFR 1910.1030, including OSHA instruction CPL 2-2.44C, or later editions.

## **5. Facility Requirements**

All body art establishments shall be completely separated from any room used for human habitation, a food establishment or room where food is prepared, retail sales, or other such activity which may cause potential contamination of work surfaces.

Toilet and lavatory facilities shall be adequate, conveniently located and available during working hours for all persons working in the establishment.

A hand wash sink with hot and cold running water shall be conveniently accessible and shall be for the use of the body art practitioner for hand washing and preparing the customer. The sink shall be equipped with approved germicidal soap solution provided by means of a pump dispenser, and individual disposable or autoclavable hand brushes and fingernail files for each operator. C-fold paper or other approved individual hand wiping towels are to be available at all times for operator use.

Hair particles, paper, tissues, cottons, and other waste materials shall be kept stored in tightly covered waste containers. Refuse containers in areas where services are provided to patrons shall be emptied and cleaned at least daily. All refuse containers shall be cleanable and kept clean. All waste materials are to be removed from the premises at least weekly.

Used bandages, gauze, gloves or other disposable items which are or may be contaminated with blood or dried blood are to be placed in closable, leak-proof color-coded or labeled containers built to contain all contents during handling, storing, transporting, or shipping. These containers are to be sterilized in an autoclave prior to disposal or transported and processed by an infectious waste transporter and disposal site approved by the PA Department of Environmental Protection. Where on-site autoclaving is utilized, autoclavable plastic bags are to be used for containerization of the waste.

Needles or any other sharp objects which may have come into contact with blood or blood products are to be placed in a closable, puncture-resistant, container specifically designed for that purpose which is leak-proof on the sides and bottom and labeled or color coded to identify the contents as a biohazard. These containers are to be sterilized in an autoclave prior to disposal or transported and processed by an infectious waste transporter and disposal site approved by the PA Department of Environmental Protection.

## 6. Practices and Procedures for Body Art Establishments

### Instrument Cleaning, Sterilization, Storage and Handling

#### (a) Cleaning and preparation of instruments for sterilization

After each tattooing operation, the tubes and needle bars shall be placed in an ultrasonic-type machine to remove any foreign material. A high quality detergent material which shall be changed daily and is suitable for an ultrasonic machine is to be used.

#### (b) Sterilization

Each body art establishment shall be equipped with an autoclave which is a design, style or model that has received clearance by the U.S. Food and Drug Administration for conformance with section 510 (k) of the Federal Food, Drug and Cosmetic Act.

After each use and before use on another customer, all needle bars, grips and tubes and needles shall be processed by the following procedure: cleaned, packaged in a self-sealing autoclave bag which is dated with an expiration date not to exceed six (6) months, and arranged in an autoclave which is operated in strict accordance with the manufacturer's recommendations. As the operation time of the autoclave may vary with the type of instrument, the packaging of that item and the arrangement of items in the autoclave, it is critical that the manufacturer's operation manual be followed. This will assure that each item placed in the autoclave achieves the proper temperature for sterilization. Temperature sensitive autoclave tape, autoclave bags with a chemical color indicator on the bag or any other temperature sensitive medium approved for autoclaves by the Department must be applied to each load every time the autoclave is used.

In addition to the above procedure, once a month a biological indicator (such as *Bacillus stearothermophilus*) must be included at the center of a package to confirm that the autoclave is providing sterilization. Documentation of autoclave performance shall be maintained as a record of the facility.

#### (c) Storage

Sterile instruments must be stored in a condition so as to maintain their sterility. All sterile and ready to use needles and instruments in their autoclaved bag or container, or in the manufacturer's original packaging shall be kept in an easily cleanable, dry enclosed glass, plastic or metal case, cabinet or drawer while not in use. Such enclosure shall be maintained in a sanitary manner at all times. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

(d) Handling

The needles and instruments shall be used, handled, and temporarily placed during tattooing so that they are not contaminated.

(e) Cleaning of Other Instruments and Articles

Articles that do not penetrate the skin, but are used on customers, including containers used for the storage of items and the collection of dirty instruments, must be thoroughly cleaned before and after each use. Instruments which can be damaged by water, are to be thoroughly wiped with clean cotton wool or a cotton pad saturated with 70% isopropyl alcohol, allowed to air dry and stored in a clean, enclosed container or manner to prevent recontamination.

(f) Use of Dyes, Inks and Pigments

All dyes, inks and pigments shall be from a source of supply which complies with applicable U. S. Food and Drug Administration regulations when available. Dyes, inks and pigments are to be used in accordance with the manufacturer's directions and are not to be adulterated with any substance not recommended by the manufacturer.

Immediately before applying a tattoo, the quantity of dye, ink or pigment to be used for the tattoo shall be transferred from the supply bottles and placed into sterile, single-use paper cups or plastic caps. Upon completion of the tattoo, these single use cups or caps and their contents shall be discarded.

Excess dye, ink or pigment shall be removed from the skin with a single service wiping tissue or sterile gauze which shall be discarded after use on each customer. Enough wipes to be used on one customer should be kept in the working area and any not used should be immediately discarded.

(g) Inspection, Shaving and Preparation of The Skin

- (1) No body art shall be done on skin surfaces which have any rash, pimples, boils, infections or any other evidence of an unhealthy condition.
- (2) If the skin is to be shaved, it must first be washed with soap and warm water. Single use disposable safety razors for each patron shall be used for preparation of the areas to be tattooed.
- (3) After shaving, the area shall be prepared by washing with soap and warm water and gently scrubbed with a sterile gauze pad soaked in a germicidal preparation.
- (4) The use of styptic pencils, alum blocks or other solid styptic to check the flow of blood is prohibited.

(h) Concluding Procedure

After completing work on any person, the area shall be washed with a sterile gauze saturated with an approved antiseptic solution or a 70% alcohol solution. The area shall be allowed to air dry and an antibacterial cream or lotion from a single-use dispenser is to be applied using sterile gauze. A dressing shall then be affixed over the area using either a non-stick bandage (telfa) or a sterile gauze attached with adhesive tape. Where adhesive tape is used, the client is to be advised as to the procedure for its removal.

(i) Linens

If reusable cloth items are used in the care and treatment of the client, they shall be changed after each use. The used linens shall be placed in a closed or covered container and laundered on a weekly basis or more frequently depending upon storage capacity and degree of contamination of the linen. Used linens shall be laundered either by a commercial laundering or by a noncommercial laundering process. The laundered linens shall be stored in a clean, enclosed storage area until needed for immediate use.

**7. Notifications and Prohibitions**

Notifications

Verbal and written instructions for the care of the site shall be provided to each customer by the facility prior to the initiation of the procedure. The after care instructions for body piercing shall be appropriate for the area being pierced. The written instructions shall advise the customer to consult a physician at the first sign of infection and contain the name, address and phone number of the establishment. The after care instructions shall be made available to the Department upon request.

If a body art operator has reasonable cause to suspect that body art is being performed in Erie County by an unregistered establishment, they are encouraged to refer the incident to the Erie County Department of Health and provide any reasonable assistance or information.

The Department's guidelines for choosing a body art establishment are to be made available to all patrons prior to the beginning of any procedure (Appendix A).

Prohibitions

Tattooing, body piercing or strike branding on any body part of a person under the age of eighteen (18) is not to be performed without the written consent of the parent or legal guardian of such minor. This consent is to be given in person to the body art practitioner

or responsible person at the facility by the parent or legal guardian at the time the procedure is to commence. The operator is required to see photographic identification of the adult as well as confirm that the adult is the parent or legal guardian of the minor. The parent or guardian of a minor must be present during any tattooing or body piercing procedure on the minor as required in 18 Pa. C.S.A. 6311.

It is prohibited to perform any form of body art on a person who, in the opinion of the operator, is inebriated or appears to be under the influence of alcohol or drugs which alter cognitive function.

It is prohibited for an operator to perform any form of body art while under the influence of alcohol or drugs which would alter cognitive function.

## **8. Exemptions**

Medical practitioners licensed by the Commonwealth of Pennsylvania who utilize tattooing or body piercing procedures as part of patient treatment are exempt from these regulations.

Individuals who pierce only ear lobes or the upper ear leading edge are exempt from these regulations.

## **9. Severability**

If any provision or application of any provision of this regulation is held invalid, that invalidity shall not affect other provisions or applications of this regulation.

## **10. Suspension and Revocation of Certificate of Registration**

A body art establishment certificate of registration may be suspended or revoked by the Erie County Department of Health upon the occurrence of any violations of this Ordinance.

A facility manager whose establishment certificate of registration is suspended or revoked may file a request for a hearing with the Department within 10 days of the suspension or revocation. The request shall be in writing.

## **11. Penalty**

### **(a) Summary Offenses**

Any person who violates any of the provisions of this regulation of the Erie County Department of Health, or who interferes with the Department in the discharge of its official duties, shall, for the first offense, upon conviction thereof in a summary proceeding before any magisterial district judge, be sentenced to pay the costs of prosecution and a fine of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300), and, in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

(b) Misdemeanors

Any person who violates any of the provisions of this regulation of the Erie County Department of Health, or who interferes with the Department in the discharge of its official duties, convicted of a second or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or to undergo imprisonment not exceeding one (1) year, or both.

**ERIE COUNTY DEPARTMENT OF HEALTH**

**BODY ART ESTABLISHMENT**

**REGULATIONS**

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1. **Legal Authority**

The following regulations are adopted under the provisions of the “Local Health Administration Law”, Act 315, approved August 24, 1951, P.L. 1304, 16 P.S. §12001 *et seq.*

2. **Scope**

These regulations establish definitions and set standards for body art establishments in Erie County, Pennsylvania, and are created to promote and protect public health.

3. **Definitions**

Aftercare – Verbal and written instructions given to the customer, specific to the body art procedure(s) performed, on caring for the body art and the surrounding area.

Antiseptic – Of, relating to, or denoting substances that prevent the growth of disease causing microorganisms.

Body Art – The practice of physical body adornment including the following techniques: body piercing, permanent cosmetics, and tattooing. Also includes body art procedures including subdermal implants, suspension, scarification, and tongue splitting.

Body Art Establishment – Any room or space where body art is practiced or conducted.

Body Piercing – The process of puncturing or penetrating the skin or mucous membrane for the purpose of insertion of any object.

Department – The Erie County Department of Health.

Equipment – All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in conjunction with the operation of a body art establishment.

Handwashing Sink – A sink equipped with hot and cold running water under pressure, used solely for washing hands and arms.

Hot Water – Water which is at a temperature of not less than 100°F.

Infectious Waste – Waste generated in the treatment or service of a human which falls under one or more of the following categories:

- (1) Pathological Waste – Human pathological wastes, including tissues that are removed during medical procedures. The term does not include hair, nails, or extracted teeth.
- (2) Human blood and body fluid waste including liquid waste, human blood, blood products, items contaminated with blood or dried human blood.

(3) Used Sharps – Needles, scalpel blades, suture needles, broken or unbroken glass or plastic ware, disposable razors, and other sharp objects that have cut or pierced the skin or have been in contact with infectious agents.

Municipal Waste – Garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments and from community activities.

Permanent Cosmetics – The implanting of inert pigments, colors or dyes intra-dermally which results in permanent alteration of tissues to gain a cosmetic effect.

Premises – The physical facility, its contents, and the contiguous land or property under the control of the licensee that may impact the body art establishment personnel, facilities, or operations.

Scarification – Scratching, etching, burning/branding, or superficially cutting designs, pictures or words into the skin as a permanent body modification.

Sterilization – The process by which all forms of microbial life, including bacteria, viruses, and spores, are destroyed by physical or chemical means.

Subdermal Implant – An object that is entirely placed underneath the skin, therefore allowing the body to heal over the implant and creating a raised design.

Suspension – The act of suspending a human body from hooks that have been put through body piercings. These piercings are temporary and are performed just prior to the actual suspension.

Tattoo – The indelible mark, figure or decorative design introduced by insertion of nontoxic pigments into or under the skin of a human being.

Tattoo/Body Piercing Artist – The person who actually performs the work of body art.

Tattooing – The process of placing nontoxic pigment into or under the skin or mucosa by the aid of needles or any other instrument which results in an indelible mark.

Temporary Body Art Establishment – A body art establishment that operates at a fixed location in conjunction with a single event or celebration.

Tongue Splitting – A type of body modification in which the tongue is cut centrally from its tip to as far back as the underside base, forking the end.

#### 4. License

##### (a) Application and Plan Submission

Any person desiring to operate a body art establishment in Erie County shall make written application for a License on forms provided by the Department. Such application shall be submitted prior to any construction, remodeling, change of ownership or operation of a body art establishment.

##### (b) General Requirements

1. No person shall operate a body art establishment in Erie County without a valid License issued by the Department.
2. Licenses are not transferable.
3. Licenses must be renewed annually and are valid for one year after date of issuance.
4. Licenses must be posted in a location in the body art establishment that is conspicuous to customers and the Department.
5. A License shall not be issued or renewed unless the establishment is found to be in compliance with all requirements of these regulations and all applicable fees are paid.
6. The Department shall be allowed access for inspection to determine compliance with these regulations during the establishment's hours of operation.
7. Immediately discontinue operations and contact the Department if an imminent health hazard exists such as fire, flood, extended interruption of water service, sewage backup, gross unsanitary condition, or other circumstance that may endanger public health.
8. The Department is to be notified when an establishment goes out of business.

##### (c) Temporary License

1. Any person desiring to operate a body art establishment in Erie County at a temporary event such as a fair or festival shall make written application for a Temporary License on forms provided by the Department. Such application shall be submitted prior to the event and prior to operation.
2. The establishment must be in compliance with the Department's Guidelines for Temporary Body Art Establishments and all applicable fees shall be paid before a Temporary License is issued.

## 5. **Tattoo /Body Piercing Artist**

### (a) General Requirements

1. No person with boils, infected wounds, open sores, acute respiratory infection or other communicable disease or condition, nausea, vomiting, or diarrhea shall work in any area of a body art establishment where there is likelihood of contaminating equipment, supplies or work surfaces.
2. Artists shall not eat, drink, or use any form of tobacco in any area where contamination of equipment and supplies could occur.
3. Artists shall not perform any body art if they are impaired by drugs or alcohol.
4. Body art procedures shall be performed only on a healthy skin surface. No body art shall be performed on skin surfaces which have any rash, pimples, boils, infections or any other evidence of an unhealthy condition.
5. Prior to starting each procedure or handling equipment, artists must thoroughly wash their hands, forearms and nails using soap and warm running water. Hands must be dried with a disposable paper towel.
6. Disposable gloves shall be worn for any procedure involving contact with a customer's skin, hair, or other body tissue. When sessions are interrupted or immediately after gloves are torn, gloves shall be removed and discarded and hands shall be washed and a fresh pair of gloves used.
7. All soaps, inks, dyes, pigments, ointments, and other products shall be dispensed and applied using an aseptic technique and in a manner to prevent contamination of the original container and its contents. Applicators shall be single use.
8. If the skin is to be shaved, it must first be washed with soap and water. Single use disposable safety razors for each patron shall be used for preparation of the area to be tattooed. After shaving, the area shall be prepared by washing with soap and water or by wiping with an alcohol solution.
9. After completing tattoo work on any person, the area shall be washed with a clean, absorbent disposable material saturated with an approved antiseptic solution. The area shall be allowed to air dry and a cream or lotion is to be applied using clean, absorbent disposable material. A dressing shall then be affixed over the area.
10. Prior to a procedure, the area of the customer's body to be pierced shall be thoroughly cleaned, then prepared with an antiseptic solution that is applied with a clean, absorbent disposable material. In the case of oral piercings, the patron shall be provided with alcohol-free antiseptic mouthwash in a single use cup and shall ensure that the customer utilizes the mouthwash provided to thoroughly rinse the affected area. In the case of a lip, labret, or cheek piercing, procedures described in this paragraph for both skin and oral piercings shall be followed.

## Training

1. No person shall practice body art within Erie County without first providing documentation to the Department that they have attended a bloodborne pathogen course approved by the Department within the current year.
2. Bloodborne pathogen course certificates must be posted in a location in the body art establishment that is conspicuous to customers and the Department.

## 6. Facility Requirements

### (a) Water Supply

All water supplied to a body art establishment shall be from a source approved by the Department. An adequate quantity of water shall be provided for operations.

### (b) Sewage

All sewage shall be disposed through a system that is approved by the Department.

### (c) Physical Facilities

1. All body art establishments shall be separated from any room used for human habitation, a food establishment, or other such activity which may cause potential contamination of work surfaces.
2. Floors, walls, and ceilings in work areas and restrooms shall be smooth, durable, easy to clean and kept clean and in good repair.
3. Restrooms shall be adequate, conveniently located, and available during working hours for all persons working in the establishment and shall comply with applicable ordinances, codes, and regulations. Restrooms shall be supplied with hot and cold running water, soap, disposable paper towels, and a covered waste receptacle.
4. Adequate lighting shall be provided in the areas where body art is performed.
5. Adequate ventilation shall be provided.
6. Effective measures shall be taken to protect against the entrance and breeding or presence of insects and rodents.
7. No live animals shall be kept or allowed in any room where body art is performed except service animals.

(d) Handwashing Sink

1. A handwashing sink with hot and cold running water shall be located in the area where body art is performed and shall be for the exclusive use of the artist for handwashing and preparing the customer. This sink must not be used for dumping of waste or cleaning of equipment.
  - a. This sink must be in addition to a restroom handwashing sink.
  - b. Existing facilities without a separate handwashing sink shall be required to install one at the time of any remodeling or change of ownership.
2. The handwashing sink must be provided with soap, disposable paper towels, and water at a temperature of at least 100 °F through a mixing valve or combination faucet.

7. **Equipment**

(a) General Requirements

1. An area located away from work stations and areas frequented by the public is to be provided for the cleaning and/or sterilization of equipment. A sink with hot and cold running water must be provided.
2. All tables and other equipment shall be constructed of material that is smooth, nonabsorbent, and easily cleanable.
3. All inks and pigments used in tattooing shall be nontoxic, free from adulteration, from a safe source and used in accordance with the manufacturer's directions.

(b) Sterilization Process

1. All non-disposable instruments or equipment used for body art procedures including bars, grips, and tubes, shall be thoroughly cleaned and sterilized after each use on any patron in the following manner:
  - a. Soaked to remove all gross debris
  - b. Rinsed and patted dry
  - c. Disassembled or placed in the open position, if hinged
  - d. Visually inspected to verify that they are clean and to identify any damage, including but not limited to, bends, cracks or pits, that would impair the sterilization process

- e. Thoroughly cleaned in warm water and an appropriate detergent capable of breaking down blood, ink, dyes, pigments and other contaminants
  - f. Placed in an ultrasonic cleaning unit filled with an appropriate solution specified in the manufacturer's instructions
  - g. Rinsed and air dried
  - h. Individually packed in sterilization pouches. Each pouch or its indicator shall be labeled with an expiration date not to exceed one (1) year.
  - i. Sterilized in an autoclave
2. All ultrasonic cleaning units and autoclaves shall be used, cleaned and maintained in accordance with the manufacturer's current instructions. The autoclave shall be maintained in proper working condition and records of any maintenance performed shall be kept for at least two years.
  3. If the body art establishment uses all single-use, disposable instruments and products, an autoclave shall not be required. All single-use, disposable tattooing and piercing instruments must be obtained pre-sterilized by the manufacturer. If packaging is opened, damaged, or past the expiration date, item must be discarded or sterilized as explained in section 7(b)1.

(c) Monitoring Sterilization

1. To ensure proper temperature for sterilization has occurred, temperature sensitive autoclave tape or autoclave bags with a chemical color indicator on the bag must be included every time the autoclave is used.
2. In addition, once a month a biological indicator/spore test must be included at the center of a load to confirm that the autoclave is providing sterilization.

(d) Storage

1. After sterilization, all equipment and instruments used for body art shall remain in the sterilization pouch, handled with newly gloved hands and stored in a clean, dry, closed cabinet, drawer, or other container reserved for such instruments or equipment.
2. Single-use, disposable instruments and products must also be stored in a clean, dry, closed cabinet, drawer or other container reserved for such instruments or equipment.

(e) Jewelry

1. Jewelry which has not been sterilized by the manufacturer and maintained in an individual factory sealed package or container is to be cleaned and sterilized following the procedures in 7(b)1 above.
2. Only sterilized jewelry made of ASTM F136 compliant titanium or ASTM F138 compliant steel, solid 14 karat or 18 karat white, rose or yellow gold, niobium, or platinum, shall be placed in a new piercing. Mill certificates for jewelry shall be maintained at the body art establishment.
3. Substandard jewelry such as that which is damaged, scratched, not expressly designed for body piercing, jewelry made of silver, gold plated or filled or other corrosive metal or threaded jewelry sixteen (16) gauge or thicker with external threads shall not be used for initial piercing.
4. The body piercing operator will direct the customer to ensure that appropriate jewelry material, sizes and styles for the piercing are selected.

**8. Customer Education**

- (a) Before performing any body art, each customer shall be informed about the possible risks associated with the tattoo or piercing requested.
- (b) Prior to performing any body art, the artist shall inquire of a patron if they have conditions which could affect the healing process.
- (c) Verbal and written instructions for the care of the tattooed or pierced site shall be provided to each customer after completion of the procedure. The aftercare instructions for body piercing shall be appropriate for the area being pierced. These instructions shall include, but not be limited to, information about physical restrictions, wound care, signs and symptoms of infection, and when to seek medical treatment, if necessary. Aftercare instructions shall also include the name, address and phone number of the establishment and shall be made available to the Department upon request.
- (d) Artists must direct customers to consult a physician for any medical conditions that cannot be resolved by the establishment.

**9. Consent and Prohibitions**

- (a) It shall be unlawful for any person to perform body art on any person under 18 years of age without the presence, written consent and proper identification of the person's parent or legal guardian.

- (b) It is prohibited to perform body art on a customer who is under the influence of alcohol or drugs.
- (c) It is prohibited to perform body art procedures resulting in subdermal implants, suspension or scarification without a plan approved by Erie County Department of Health.
  - a. The plan shall include demonstration of compliance with these regulations; information regarding the risk and complications that may be associated with this procedure; and actions that would be taken to prevent or minimize risks to the health and safety of the client and the body artist.
- (d) It is prohibited to perform tongue splitting on another person unless the tongue splitting is performed by a physician or dentist licensed in this Commonwealth.

#### 10. Exemptions

- (a) Individuals who pierce only the lobe of the ear using a pre-sterilized, single-use stud and clasp ear piercing system (gun) are exempt from the requirements of these regulations.
- (b) Medical practitioners licensed by the Commonwealth of Pennsylvania, and their employees who utilize tattooing or body piercing procedures as part of patient treatment are exempt from these regulations.

#### 11. Waste Disposal

- (a) Municipal waste shall be kept stored in tightly covered waste containers. All waste containers shall be cleanable and kept clean. All waste materials are to be removed from the premises at least weekly and disposed of at an approved location
- (b) Infectious waste such as used bandages, gauze, gloves or other disposable items which are or may be contaminated with blood or dried blood are to be placed in a closable, puncture-resistant, container specifically designed for that purpose which is leak-proof on the sides and bottom and labeled or color coded to identify the contents as a biohazard. These containers shall be transported and processed by an infectious waste transporter and disposed of at a site approved by the PA Department of Environmental Protection.
- (c) Needles or any other sharp objects which may have come into contact with blood or blood products are to be placed in a closable, puncture-resistant, container specifically designed for that purpose which is leak-proof on the sides and bottom and labeled or color coded to identify the contents as a biohazard. These containers are to be transported and processed by an infectious waste transporter and disposed of at a site approved by the PA Department of Environmental Protection.

## 12. **Records**

### (a) Bloodborne Pathogen Course Certificates

Copies of bloodborne pathogen course certificates for every artist must be kept on file for at least two years.

### (b) Biological Indicator/Spore Tests

Documentation of autoclave performance shall be maintained for at least two years and shall include date and time the sterilizer load was run, name of the person operating the unit, results of sterilization and results of the biological indicator/spore test.

### (c) Consent forms

A record of each body art procedure shall be maintained for each customer. The records shall include name, signature, age, address and telephone number of customer; name, address and telephone number of parent or guardian, when required; description or photo of tattoo/piercing and location; date performed; and artist's name. Records shall be kept for at least two years.

### (d) Infectious waste disposal

Records from infectious waste transporters shall be kept for at least two years.

### (e) Availability

All records shall be made available to the Department upon request.

## 13. **Penalties**

### (a) Summary Offenses

Any person who violates any of the provisions of these regulations of the Erie County Department of Health, or who interferes with the Health Director or any other agent of the Erie County Department of Health in the discharge of his official duties, shall, for the first offense, upon conviction thereof in a summary proceeding before a Magisterial District Justice of Erie County wherein said offense was committed, be sentenced to pay the costs of prosecution and a fine of not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300), and in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

## **EXHIBIT A**

### **(b) Misdemeanors**

Any person who violates any of the provisions of these regulations of the Erie County Department of Health, or who interferes with the Health Director or any other agent of the Erie County Department of Health in the discharge of his official duties, convicted of a second or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) or to undergo imprisonment not exceeding one (1) year, or both.

### **(c) Separate Offenses**

Violations on separate days shall be considered separate offenses.

### **(d) Injunctions**

The Erie County Department of Health may seek to enjoin violations of these rules and regulations or may proceed in any court of law or equity to obtain any additional cumulative remedies to abate any violation under these rules and regulations. Nothing in these rules and regulations shall in any way alter rights or action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil.

## **14. Severability**

If any section, sub-section, paragraph, clause, or provision of these regulations shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these regulations as a whole or any part thereof. It is hereby declared to be the intention of the Erie County Department of Health, the Erie County Board of Health, and the Erie County Council that the remainder of the regulations would have been enacted if such invalid section had not been enacted and that it is their intent, intention and desire that the remaining portion of the regulations remain in effect.

Attached are the comments from 7 individuals received during our 30 day public comment period for revisions to our Body Art regulations. We removed all names so this attachment can be provided to Council member at the Finance meeting this Thursday. Thank you!

**Please note:** My email address has been changed to [ktobin@eriecountypa.gov](mailto:ktobin@eriecountypa.gov) please update your contacts.

**Karen M. Tobin REHS** | Director, Environmental Health Services  
**Erie County Department of Health** | Office: 814-451-6754 | Fax: 814-451-6775  
606 W 2<sup>nd</sup> Street Erie, PA 16507



**Public Health**  
Prevent. Promote. Protect.



March 7, 2016

Dear Ms. Adams and Ms. Tobin

As per our phone conversation, Ms. Tobin, Director of Environmental Health Services requested I submit in writing the details of our conversation.

After speaking with Ms. Tobin, I commend you for being proactive in protecting the general public from individuals who may be putting their customers in danger due to unethical or dangerous practices.

In the past, the Department of Health deemed me exempt from the tattoo artist and body modification category due to the nature and scope of my practice. I respectfully request that \_\_\_\_\_ remain exempt as long as it remains in a medical office.

I am a Board Certified Technician by the AAM with 15 years' experience in paramedical and esthetic elective permanent makeup services; I hold a current Cosmetology and Aesthetician license with the PA Board of Cosmetology and am a Clinical Assistant to Plastic Surgeon, \_\_\_\_\_ MD in his Erie PA office. I have no employees.

Any and all services that I provide are (termed clean and not sterile) conducted in the surgical space of a medical office. All rules and protocol of sanitation, sterilization and disposal of waste in a medical office are practiced. There is no need for an autoclave in my practice due to the fact I only use disposable pre sterilized tubes and needles direct from the factory. My used needles and tubes are disposed of in a sharps container.

My services are by appointment. I do not accept clients who walk in off of the street as tattoo shops do. I require a consultation prior to any service. The consultation consists of forms detailing the client's health, medications being taken, allergies, and in some cases letters of referral or recommendation of services by a health care provider. Client/patient risks and benefits are discussed at this time, informed consent, consent for services and model release forms are signed and kept in the clients file along with before and after photographs of the client and procedure notes. After care is given both verbally and on paper. The following day, I contact each client by phone to see how they are progressing. My private cell phone is listed on my business card should my clients have concerns or questions.

A great number of my clients are referrals by local physicians. I specialize and serve the medical community in many ways. For instance, the Erie VA referred a female patient to me for repigmenting of her areolas rather than have her drive to Cleveland. A local Dermatologist refers his patients who suffer from allergies to topical makeup to me for permanent eyeliner, to avoid reoccurring eye irritation. My services are as follows, nipple and areola medical tattooing following breast reconstruction, simulated reconstruction of eyebrows and eyelashes of cancer patients, burn patients, alopecia patients, and simulated lip line reconstruction after surgical cleft lip repair as well as those suffering from an unfortunate auto accident, Hashimoto's Disease, Parkinson's disease, and or partial/total loss of vision. Elective services include permanent eyebrows, eyeliner, and lip color.

It is my thought that professionals who work and or provide services in a medical office to patients/clients be exempt. Thank you for your consideration.

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**From:**  
**Sent:** Wednesday, March 09, 2016 9:45 AM  
**To:** Adams, Breanna  
**Subject:** comment on proposed body art regulations

I'd like to comment on the proposed regulations governing tattoo shops and body modifications.

I think that the health department should not be focused on this. No one in Erie County is even doing body modifications. If and when it becomes a problem, meaning it's causing health issues; then and only then should it be regulated.

This seems like a solution in search of a problem.

Don't we want our tattoo shops to grow? Don't we want to attract business here? With regulations that serve zero purpose other than to deter would be entrepreneurs it would seem our goals are misaligned.

Please don't go through with this plan.

Thank you.

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**From:**  
**Sent:** Friday, March 11, 2016 4:58 PM  
**To:** Adams, Breanna  
**Cc:**  
**Subject:** Re: Draft Regulations

without these things in there it just seems like there is no need to have regulations at all because youre making it more appealing to tattoo outside of regulation than inside

On Fri, Mar 11, 2016 at 4:56 PM, ..  
we can also start penalizing the "at home tattoo artists" the same as we would at home dentistry or doctoring. these penalties need to be extreme and severe to discourage the idea that its ok to do this out of a professional shop.

On Fri, Mar 11, 2016 at 4:54 PM, .. wrote:  
I hope Im not the first one to point out that although these are all things we should be doing anyway, this does nothing to fix the problem of at home tattoo artists. those of us who are running/ in shops are going out of our way to work with the health board to make this job safer for the artists and the clients. We arent the ones who need fines and penalties... the first step towards making something safer is to regulate it right. right regulations should be an actual licence... one that reflects how long we have been tattooing and our skill level. say level 1, apprentice licence: first 2-3 years of experiance must be under supervision of a rank 3 tattoo artist. level 2: journeyman tattoo artis 3-12 years, can move between shops no longer requires supervision cannot own/ operate a shop or teach. level 3: Master tattoo artist, beyond 12 years experience can teach or run/ own a shop. you dont have to be a master tattoo artist to own a shop but you must employ one...

On Wed, Mar 9, 2016 at 11:28 AM, Adams, Breanna <[BAAdams@eriecountypa.gov](mailto:BAAdams@eriecountypa.gov)> wrote:

Good Morning--

I wanted to send a friendly reminder that the comment period for the draft regulations ends on March 18, 2016. If you did not receive a copy of the regulations in the mail, they are available online here: [https://www.eriecountypa.gov/media/389564/2016-body-art-ordinance\\_final-draft.pdf](https://www.eriecountypa.gov/media/389564/2016-body-art-ordinance_final-draft.pdf)

Please provide comments in a written format by either email to: [badams@eriecountypa.gov](mailto:badams@eriecountypa.gov) or mail to: Erie County Department of Health Attn: Breanna Adams 606 West 2<sup>nd</sup> Street, Erie PA 16507. All comments will be taken into consideration before a final version is presented through an ordinance to County Council.

Thank you,

Breanna

I agree with most of the new regulations that are being proposed, in fact in some areas I don't think you went far enough. First Aid and CPR certification for artists should be a no brainer.

However...

I strongly disagree with the continued use of ear piercing systems (gun). If you look at the manual they provide with their "gun" they are suggesting piercing a lot more than the outer ear. There is a slew of evidence that points out the hazards of using this outdated method (left over from tagging cattle). Also, why we are on the subject, are the people working in these establishments required to maintain the same BBP training we are? Are they required to obtain a license from the Health Board, as we are? If not, why not. I know full well, why the County would choose not to address this problem, as I'm sure corporate lawyers (think Claires, Walmart, Piercing Pagoda) would become involved. However, the fact remains, this is an outdated, often times unsafe practice, executed by individuals with little or no training. If the County is looking for things to regulate, let's start there, be a trend setter and say No more to piercing guns. I'm sure it would get picked up by the National media and Erie can be a trend setter. A very good argument to abolish them can be found at

<http://www.goodhousekeeping.com/beauty/anti-aging/a35208/piercing-guns-bad-dangers/>

Also, though I will concur that it is very hard to do, how about going after the individuals tattooing/piercing out of their homes. Especially when they are reported, follow up, maybe network with some city departments, because if they are running out of their house they are also breaking zoning laws and operating a business from their home. If nothing else, perhaps some Public Service Announcements about the dangers of home operators.

My biggest issue is with the County trying to prohibit subdermal implants, suspension, scarification, and tongue splitting. First, suspension is not a form of body modification; the piercings are temporary and are performed just prior to the actual suspension. Information can be found here

[https://en.wikipedia.org/wiki/Suspension\\_%28body\\_modification%29](https://en.wikipedia.org/wiki/Suspension_%28body_modification%29) Also, the act of suspension for some individuals has a spiritual/religious aspect.

<http://www.theatlantic.com/health/archive/2012/09/the-therapeutic-experience-of-being-suspended-by-your-skin/262644/> That alone should be enough for the County not to get involved.

My issue with the County trying to regulate any of these is the same. First I don't see how any of these can be a danger to the Public Health. Individual risk, sure; but there is risk in everything! I don't see anywhere in the Health Boards mission statement where they are to manage individual risk.

The mission of the Department of Health is-

"To preserve, promote and protect the health, safety and well-being of the people and the environment of Erie County.

By:

- • Acting as the guardian and as an advocate in all matters relating to the public's health;
- • Promoting healthy lifestyles;
- • Reducing preventable illness and controlling the spread of communicable diseases;

- Identifying and eliminating health and safety hazards;
- Protecting and promoting the quality of the environment.”

If these procedures are a risk to public health, please elaborate on how. In its attempt to protect citizens from the dangers of these procedures, the County has overstepped the rights of individuals who choose to modify their bodies as a form of personal expression. An outright ban on these practices would push them underground, leaving that public with no safe way to pursue this art. I oppose the prohibition as a restriction on personal liberty. I don't think it's the proper role of government to tell people what they can and cannot do with their own bodies. What an individual chooses to do in terms of those types of modifications to one's body, should be left to them.

Overall, I would support the County's effort and applaud them on undertaking this, which I think is long overdue. But would reiterate that the prohibitions being considered shouldn't; and some public service announcements about the dangers of home tattooing would be appropriate and would help to foster good will with the studios.

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**From:**  
**Sent:** Thursday, March 17, 2016 6:10 PM  
**To:** Adams, Breanna  
**Subject:** Recommendations for Updated Body Art Establishment Regulations

Breanna,

After the staff and I at \_\_\_\_\_ reviewed the recommended updates for the Body Art Establishment Regulations we found them to be agreeable except for the following:

5. Tattoo/ Body Piercing Artist

(a) General Requirements

8. After completing tattoo work on any person, the area shall be washed with a sterile gauze saturated with an approved antiseptic solution. The area shall be allowed to air dry and an antibacterial cream or lotion from a single-use dispenser is to applied using sterile gauze. A dressing shall then be affixed over the area

There are three points in this section that need to be addressed.

1. The use of sterile gauze is unnecessary during the tattoo process. My wife, who is a registered nurse with experience in the hospital, has a lengthy experience with both sterile and clean procedures. In her opinion, the process of tattooing is completely a clean procedure. Once the sterile gauze would be opened and placed in a clean gloved hand it would no longer be deemed sterile, so requiring us to buy sterilized gauze seems unnecessary as to keep it sterile we would also need sterile gloves. My suggestion is to simply change the wording in this section to a clean piece of gauze or paper towel instead of a sterile piece. In reality what most shops currently use is a stack of clean paper towels during the tattooing process as they are absorbent and much more efficient than gauze.

2. The use of antibacterial cream after the tattoo is actually damaging to said tattoo. Most artists use an A&D ointment to coat the area after the tattoo has been applied. I would suggest either wording that section as A&D ointment or simply ointment.

3. The use of a single dispensed package for the A&D ointment used during and after the tattoo is unnecessary and wasteful. Like our inks, the ointment we use is dispensed from a multi-use container before the tattooing process begins. There is no risk of cross contamination and once the tattoo has been completed the unused ointment left is disposed of. I would suggested rewording the sentence addressing single use dispenser to refer to a multi-use dispenser where the ointment is dispensed before the tattoo process begins.

As I mentioned before all other changes are adequate and agreeable. If you have any further questions feel free to contact me or my wife \_\_\_\_\_ has also mentioned if you would like her to come in and speak to the board about these changes she would be more than happy to.

Thank you,

**Adams, Breanna**

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**From:**  
**Sent:** Friday, March 18, 2016 3:47 PM  
**To:** Adams, Breanna  
**Subject:** proposed regulations for body art

Hi Breanna,

There were a few things I'd like to comment on. Also, please be sure to address the Branding restriction for me at the next board meeting. I did my presentation in 2008 and got branding approved. I appreciate it:)

Page 3, section C, 1st paragraph: Obtaining a temporary license for a "fair or festival".

I don't feel this is a safe atmosphere to perform body art. People with open wounds walking through crowds of people at a festival does not sound safe for either party. Even if the wound is covered with a dressing, tattoos still tend to leek blood/body fluids out from under the dressing. And most people don't keep their body art covered, especially in public, because they might want to show it off.

1) Will the artist be required to be in an enclosed area while tattooing or piercing (away from insects and crowds of people possibly contaminating their work area)?

2) Will the artist be obligated to have a handwashing sink in their work area with warm running water?

Page 3, section 5, paragraph 9, 1st sentence:

"Thoroughly cleaning the area with soap and water"; In my years of piercing, I haven't ever been instructed or suggested to do this. We prep the area to be pierced with povidone-iodine or if the person has an allergy we use an alcohol pad. If there is make-up on the area, we use an alcohol pad first then prep with povidone-iodine. Is this referring to the client being clean and showered on their own with soap and water before they come in to get pierced? We have a sign posted that we reserve the right to refuse anyone service at any time. So if someone does come in and its obvious they are not clean, we will tell the client to go home and shower first.

Page 7, section e, 1st paragraph:

FYI regarding jewelry; Before jewelry is sterilized it should first be run through an ultrasonic cleaner. This will remove any machining particles and polishing compounds from the jewelry.

I was really happy to see your addition to the jewelry standards:) We offer Rose Gold as well as the other golds you have listed. Can you add that please?

Page 7, section b, paragraph h:

According to OSHA regulations, "Although either event- or time-related practices for storage of sterile packages may be used, it is important to understand that the package contents should remain sterile indefinitely unless some outside event, such as tearing or moisture causes the pouch to become compromised. At that time it is important to repackage and resterilize the package contents to ensure sterility of the instruments".

I'd like to see the expiration date of our sterilized equipment be extended to atleast 1 year, if not longer.

Page 8. section 9, paragraph c:

Again, please bring up the branding prohibition and the fact that I did my presentation to get it passed in 2008.

I was sad to see piercing guns were exempt from these regulations. Hopefully one day.

Did you guys ever consider requiring first aid and CPR training?

Thanks Breanna! Let me know if theres anything I can do to help out.

## 5. Tattoo /Body Piercing Artist

### (a) General Requirements

1. No person with boils, infected wounds, open sores, acute respiratory infection or other communicable disease or condition, nausea, vomiting, or diarrhea shall work in any area of a body art establishment where there is likelihood of contaminating equipment, supplies or work surfaces.
2. Artists shall not eat, drink, or use any form of tobacco in any area where contamination of equipment and supplies could occur.
- ✱ Artists shall not perform any body art if they are impaired by drugs or alcohol.
- ④ Body art procedures shall be performed only on a healthy skin surface. No body art shall be performed on skin surfaces which have any rash, ~~pimples~~ boils, infections or any other evidence of an unhealthy condition.  
\* PIMPLES ARE AN UNHEALTHY SKIN CONDITION?
5. Prior to starting each procedure or handling equipment, artists must thoroughly wash their hands, forearms and nails using soap and warm running water. Hands must be dried with a disposable paper towel.
6. Disposable gloves shall be worn for any procedure involving contact with a customer's skin, hair, or other body tissue. When sessions are interrupted or immediately after gloves are torn, gloves shall be removed and discarded and hands shall be washed and a fresh pair of gloves used.
- ⑦ If the skin is to be shaved, it must first be washed with soap and <sup>\*</sup>warm water. Single use disposable safety razors for each patron shall be used for preparation of the area to be tattooed. After shaving, the area shall be prepared by washing with soap and <sup>\*</sup>warm water or by wiping with an alcohol solution.  
\* WHY WARM WATER?
- ⑧ After completing tattoo work on any person, the area shall be washed with a <sup>\*</sup>sterile gauze saturated with an approved antiseptic solution. The area shall be allowed to air dry and an antibacterial cream or lotion from a single-use dispenser is to be applied using sterile gauze. A dressing shall then be affixed over the area.  
\* ADD FOOD GRADE PLASTIC WRAP

PG 9

## 10. Exemptions

- (a) Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized, single-use stud and clasp ear piercing system (gun) are exempt from the requirements of these regulations.  
\* I DON'T AGREE WITH THIS EXEMPTION. WHY IS THIS EXEMPT?
- (b) Medical practitioners licensed by the Commonwealth of Pennsylvania who utilize tattooing or body piercing procedures as part of patient treatment are exempt from these regulations.

## 11. Waste Disposal

- (a) Municipal waste shall be kept stored in tightly covered waste containers. All waste containers shall be cleanable and kept clean. All waste materials are to be removed