

Chapter HFS 173

TATTOOING AND BODY PIERCING

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HFS 173.01 Authority and purpose. This chapter is promulgated under the authority of ss. 252.23 (4), 252.24 (4) and 252.245 (9), Stats., for the purpose of regulating tattooists, tattoo establishments, body piercers and body-piercing establishments in order to protect public health and safety.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.02 Scope. (1) **APPLICABILITY.** This chapter applies to all tattooists, body piercers, tattoo establishments and body-piercing establishments.

(2) **APPROVED COMPARABLE COMPLIANCE.** When it appears to the department that strict adherence to a provision of this chapter is impractical for a particular tattooist, tattoo establishment, body piercer or body-piercing establishment, the department may approve a modification in that requirement for that person or establishment if the department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety or welfare.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.03 Definitions. In this chapter:

(1) "Agent" means a local health department serving a population greater than 5,000 which is designated by the department under a written agreement authorized by s. 252.245 (1), Stats., to issue licenses to and make investigations or inspections of tattooists, tattoo establishments, body piercers and body-piercing establishments.

(2) "Antiseptic" means a chemical that kills or inhibits the growth of organisms on skin or living tissue.

(3) "Approved" means acceptable to the department based on its determination of conformance to this chapter and good public health practices.

(4) "Autoclave" means an apparatus that is registered and listed with the federal food and drug administration for sterilizing articles by using superheated steam under pressure.

(5) "Body pierce," as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing.

(6) "Body piercer" means a person who performs body piercing on another person at that person's request.

(7) "Body piercing" means perforating any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.

(8) "Body-piercing establishment" means the premises where a body piercer performs body piercing.

(9) "Cleaning" means the removal of foreign material from objects, normally accomplished with detergent, water and mechanical action.

(10) "Department" means the Wisconsin department of health and family services

(11) "Disinfectant" means a chemical that is capable of destroying disease-causing organisms on inanimate objects, with the exception of bacterial spores.

(12) "Hot water" means water at a temperature of 110°F. or higher.

(13) "Local health department" means an agency of local government that takes any of the forms specified in s. 250.01 (4), Stats.

(14) "Operator" means the owner or person responsible to the owner for the operation of a tattoo or body-piercing establishment.

(15) "Patron" means a person receiving a tattoo or body piercing.

(16) "Practitioner" means a tattooist or body piercer.

(17) "Premises" means a building, structure, area or location where tattooing or body piercing is performed.

(18) "Sharps waste" means waste that consists of medical equipment or clinical laboratory articles that may cause punctures or cuts, such as hypodermic needles, syringes with attached needles and lancets, whether contaminated, unused or disinfected.

(19) "Single-use" means a product or item that is disposed of after one use, such as a cotton swab, a tissue or paper product, a paper or soft plastic cup, or gauze or other sanitary covering.

(20) "Sterilization" means the killing of all organisms and spores through use of an autoclave operated at a minimum of 250°F. (121°C.) at pressure of at least 15 pounds per square inch for not less than 30 minutes or through use of an autoclave approved by the department that is operated at different temperature and pressure levels but is equally effective in killing all organisms and spores.

(21) "Tattoo," as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

(22) "Tattoo establishment" means the premises where a tattooist applies a tattoo to another person.

(23) "Tattooist" means a person who tattoos another person at that person's request.

(24) "Tempered water" means water ranging in temperature from 85°F. to less than 110°F.

(25) "Temporary establishment" means a single building, structure, area or location where a tattooist or body piercer performs tattooing or body piercing for a maximum of 7 days per event.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.04 Licenses. (1) **APPLICATION FOR ESTABLISHMENT LICENSE.** (a) *Requirement.* No person may operate a tattoo establishment or body-piercing establishment or a combined tattoo and body-piercing establishment unless he or she has obtained a license for the establishment from the department or its agent by application made upon a form furnished by the department or its agent. An application submitted to the department shall be accompanied by the fee required under par. (b).

Note: To obtain a copy of the establishment application form, write: Bureau of Public Health, P. O. Box 309, Madison, Wisconsin 53701.

(b) *Department fees.* The operator of a tattoo establishment or body-piercing establishment or a combined tattoo and body-piercing establishment shall pay an annual license fee to the department as follows:

1. For a body-piercing establishment, \$100.

2. For a tattoo establishment, \$100.
3. For a combined tattoo and body-piercing establishment, \$150.
4. For a temporary tattoo or body-piercing establishment or a temporary combined tattoo and body-piercing establishment, \$100 per event.
5. For inspection of a new establishment, a preinspection fee of \$75.

(2) APPLICATION FOR PRACTITIONER LICENSE. (a) *Requirement.* No person may tattoo or body pierce another person, use or assume the title of tattooist or body piercer or designate or represent himself or herself as a body piercer unless the person has obtained a license from the department by application made upon a form furnished by the department. An application submitted to the department shall be accompanied by the fee required under par. (b).

Note: To obtain a copy of the practitioner application form, write: Bureau of Public Health, P. O. Box 309, Madison, Wisconsin 53701.

(b) *Department fees.* A person who wishes to practice as a tattooist or body piercer shall pay an annual fee to the department as follows:

1. For a body piercer, \$50.
2. For a tattooist, \$50.

(3) ACTION BY THE DEPARTMENT. (a) Within 30 days after receiving a completed application for a license, the department or its agent shall either approve the application and issue a license or deny the application. If an application for a license is denied, the department or its agent shall give the applicant reasons, in writing, for the denial and provide information about how the applicant may appeal that decision under s. HFS 173.12 (4).

(b) The department or its agent shall not issue a license to a new tattoo or body-piercing establishment or a new operator at an existing establishment without completing a prior inspection of the establishment to ensure that the establishment complies with the requirements of this chapter.

(4) DISPLAY OF LICENSE. The operator of a tattoo or body-piercing establishment shall conspicuously display in the establishment the licenses issued by the department or its agent for the establishment and for all practitioners working in the establishment.

(5) CHANGE OF OPERATOR. The operator of a tattoo or body-piercing establishment shall promptly notify the department or its agent of his or her intention to cease operations and shall supply the department with the name and mailing address of any new operator. A license is not transferable. A new operator shall submit an application under sub.(1) for a new license.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.05 Patrons. **(1) LIMITATIONS.** (a) *Consent.* A tattooist or body piercer may not tattoo or body pierce a patron without first obtaining the signed, informed consent of the person on a form approved by the department.

Note: To obtain a copy of an approved consent form, which may be reproduced, write: Bureau of Public Health, P. O. Box 309, Madison, Wisconsin 53701.

(b) *Minors.* 1. No person under 16 years of age may be body pierced.

2. No person age 16 or 17 may be body pierced unless an informed consent form has been signed by his or her parent or legal guardian in the presence of the operator.

3. No person under 18 years of age may be tattooed except by a physician in the course of the physician's professional practice, as permitted under s. 948.70 (3), Stats.

4. A body-piercing establishment shall post a notice in a conspicuous place in the establishment stating that it is illegal to body pierce a person under the age of 18 without the signed, informed consent of that person's parent or legal guardian.

5. A tattoo establishment shall post a sign in a conspicuous place in the establishment stating that no person under the age of 18 may be tattooed.

(c) *Barriers to procedure.* A tattooist or body piercer may not tattoo or body pierce any of the following:

1. A person who appears to be under the influence of alcohol or a mind-altering drug.

2. A person who has evident skin lesions or skin infections in the area of the procedure.

(2) RECORD. Every tattooist and body piercer shall keep a record of each patron. A patron's record shall include the patron's name, address, age and consent form, the name of the practitioner doing the procedure and any adverse effects arising from the procedure. A patron's record shall be retained for a minimum of 2 years following completion of the procedure.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.06 Physical facilities and environment.

(1) FLOORS. Floors in the area where tattoo or body-piercing procedures are performed shall be constructed of smooth, durable and non-porous material and shall be maintained in a clean condition and in good repair. Carpeting is prohibited.

(2) WALLS AND CEILINGS. Walls and ceilings in the area where tattoo and body-piercing procedures are performed shall be light-colored, smooth and easily cleanable.

(3) LIGHTING. Tattoo and body-piercing application areas shall maintain a minimum illumination of 50 footcandles.

(4) PREMISES. The premises and all facilities used in connection with the premises shall be maintained in a clean, sanitary and vermin-free condition.

(5) LIVING AREAS. Tattoo and body-piercing areas shall be completely separated from any living quarters by floor-to-ceiling partitioning and solid doors which are kept closed during business hours. A direct outside entrance to the tattoo or body-piercing establishment shall be provided.

(6) TOILET ROOMS. (a) All tattoo and body-piercing establishments shall have a public toilet and handwashing facility which is separated from any living area.

(b) Toilet room fixtures shall be kept clean and in good repair. An easily cleanable covered waste receptacle shall be provided in the toilet room.

(7) HANDWASHING FACILITIES. (a) At least one handwashing facility shall be conveniently located in the tattoo or body-piercing area, in addition to what is provided in the toilet room.

(b) Anti-bacterial soap in a dispenser and single-service towels for drying hands shall be provided at all handwashing facilities.

(c) Hot and cold potable water under pressure shall be available at all handwashing facilities except that tempered water rather than hot water may be provided.

(8) REFUSE. Easily cleanable waste containers with non-absorbent, durable plastic liners shall be used for disposal of all tissues, towels, gauze pads and other similar items used on a patron. Infectious waste, including sharps waste, shall be stored and disposed of in an approved manner consistent with subch. II of ch. NR 526.

(9) EQUIPMENT STORAGE. Instruments, dyes, pigments, stencils and other tattoo and body-piercing equipment shall be stored in closed cabinets exclusively used for that purpose.

(10) PRIVACY. A panel or other barrier of sufficient height and width to effectively separate a patron on whom a procedure is being performed from any unwanted observers or waiting patrons shall be in place or readily available at the patron's request.

(11) SMOKING AND EATING PROHIBITED IN AREA OF PROCEDURE. No smoking or consumption of food or drink is permitted in the area where a tattoo or body-piercing procedure is performed,

except that clients may consume a non-alcoholic beverage during the procedure.

(12) ANIMALS PROHIBITED IN ESTABLISHMENT. No animals, except for those that provide services to persons with disabilities, are permitted in a tattoo or body-piercing establishment.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.07 Personnel. (1) ABSENCE OF SKIN CONDITION. No tattooist or body piercer with an exposed rash, skin lesion or boil may engage in the practice of tattooing or body piercing.

(2) RESTRICTION. No tattooist or body piercer may work while under the influence of alcohol or a mind-altering drug.

(3) PERSONAL CLEANLINESS. (a) Tattooists and body piercers shall thoroughly wash their hands and the exposed portions of their arms with dispensed soap and tempered water before and after each tattoo or body-piercing procedure and more often as necessary to keep them clean.

(b) Tattooists and body piercers shall dry their hands and arms with individual single-service towels.

(c) Tattooists and body piercers shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices during procedures.

(4) CLOTHING. All tattooists and body piercers shall wear clean, washable outer clothing.

(5) HYGIENIC PRACTICES. (a) When preparing the skin and during a procedure, a tattooist or body piercer shall wear non-absorbent gloves which shall be disposed of after completing the procedure.

(b) If interrupted during a procedure, a tattooist or body piercer shall rewash his or her hands and put on new gloves if the interruption required use of hands.

(c) Tattooists shall use single-use plastic covers to cover spray bottles or other reusable accessories to minimize the possibility of transmitting body fluids or disease during application of tattoos to successive patrons.

(d) Disposable-type razors shall be for single-use only and disposed of in accordance with ch. NR 526. Electric razors used for skin preparation prior to a procedure shall have screens cleaned and disinfected between patron use.

(e) Body-piercing needles shall be disposable, sterile and for single-patron use only. Tattoo needles may be reused if cleaned, sterilized and stored in an approved manner between patrons. Body piercing jewelry shall be cleaned, individually packaged and sterilized prior to use.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.08 Equipment. (1) All surfaces, counters and general-use equipment in the tattoo or body-piercing area shall be cleaned and disinfected before a patron is seated.

(2) All inks and pigments shall be obtained from sources generally recognized as safe. Information indicating the sources of all inks and pigments shall be available to the department or agent upon request. Sterile single-use or sterile individual containers of pigment or ink shall be used for each patron. No pigment or ink in which needles were dipped may be used on another person. Pigment and ink cups shall be for single-patron use. All bulk materials used for the procedure shall be dispensed with single-use utensils. The remainder of dispensed portions shall be disposed of after application.

(3) Needles, bars and tubes shall be constructed in a manner that permits easy cleaning and sterilizing.

(4) Acetate tattoo stencils shall be single-use.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.09 Cleaning and sterilization. (1) CLEANING. (a) After each use, tattooing and body-piercing equipment shall be cleaned to remove blood and tissue residue before sterilization.

(b) Reusable needles, tubes and body-piercing equipment shall be placed in a covered stainless steel container of cleaning or disinfectant solution until they can be cleaned and sterilized.

(c) All containers holding contaminated needles, tubes, reusable body-piercing equipment and container lids shall be cleaned and disinfected at least daily.

(d) The tattoo machine shall be cleaned and disinfected before each use.

(e) Gloved personnel shall clean needles and tubes prior to sterilization by doing all of the following:

1. Manually pre-cleaning the items with care taken to ensure removal of residue; thoroughly rinsing the items with warm water and then draining the water; cleaning the items by soaking them in a protein-dissolving detergent-enzyme cleaner used according to manufacturer's instructions; and cleaning the items further in an ultrasonic cleaning unit which operates at 40 to 60 hertz and is used according to the manufacturer's instructions.

2. Rinsing and drying the items.

(f) Prior to autoclaving, all needles and tubes shall be packaged either individually or in quantities appropriate for individual procedures. Packages shall be identifiable and dated.

(2) STERILIZATION. (a) Equipment requiring sterilization shall be pressure-sterilized at the establishment in an autoclave and in accordance with the manufacturer's instructions.

(b) Each batch of sterilized equipment shall be monitored for sterilization by use of heat-sensitive indicators capable of indicating approximate time and temperature achieved.

(c) Autoclaves shall be spore-tested at least monthly. Spore kill test effectiveness shall be conducted by an independent laboratory.

(d) Sterilized equipment shall be wrapped or covered and stored in a manner which will ensure that it will remain sterile until used.

(e) Each tattoo or body-piercing establishment shall maintain sterilization records including spore tests for at least one year from the date of the last entry, which shall include the following information:

1. Date of sterilization.

2. Name of the person operating the equipment.

3. Result of heat-sensitive indicator.

(f) Sterilized equipment shall be re-sterilized if the package is opened, damaged or becomes wet.

(g) All methods of sterilization other than autoclaving are prohibited.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.10 Preparation and care of site. (1) PREPARATION BY PRACTITIONER. Before beginning a procedure, the tattooist or body piercer shall clean the skin area for the tattooing or piercing and then prepare it with an antiseptic. The solution shall be applied with cotton, gauze or single-use toweling.

(2) CARE INSTRUCTIONS FOR PATRON. After completing a procedure, the tattooist or body-piercer shall provide the patron with oral and written instructions on the care of the tattoo or pierce.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.11 Temporary establishments. In addition to requirements under ss. HFS 173.01 to 173.10 that apply to all tattoo and body-piercing establishments, the following requirements apply specifically to temporary establishments:

(1) LICENSE. (a) No temporary establishment may be operated without a license granted by the department or its agent. Application for a temporary license shall be made under s. HFS 173.04 (1).

(b) No temporary license may be issued without a prior inspection.

(c) A temporary establishment's license along with the license of each on-staff tattooist or body piercer shall be conspicuously displayed in the temporary establishment.

(d) An operator of a temporary establishment whom the department or its agent has found to repeatedly violate any provision of this chapter may be denied a license to operate the establishment or may have the license revoked.

(2) WATER. A temporary establishment shall have all of the following:

- (a) An approved toilet and handwashing facility.
- (b) Potable water under pressure.
- (c) Hot or tempered water for handwashing and cleaning.
- (d) Connection to an approved sewage collection system.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.12 Enforcement. **(1) ACCESS.** An authorized employe or agent of the department, upon presenting proper identification, shall be permitted to enter any tattoo or body-piercing establishment at any reasonable time to determine if the establishment and the practitioners are in compliance with this chapter. The department's authorized employe or agent shall be permitted to examine the records of the establishment to obtain information about supplies purchased, received or used and information relating to patrons who received tattoos or body piercing.

(2) ENFORCEMENT POLICY. (a) Order to correct violations. If upon inspection of a tattoo or body-piercing establishment, the authorized employe or agent of the department finds that the tattoo or body-piercing establishment is not planned, equipped or operated as required by this chapter, the employe or agent shall notify the operator in writing. The notice shall include an order that directs the operator to make specified changes that will bring the establishment into compliance with standards established in this chapter and that stipulates the time period within which compliance is to take place. If the order to correct violations is not carried out by the expiration of the time period stipulated in the order, or any reasonable extension of time granted for compliance, the department may issue an order suspending or revoking the license to operate the tattoo or body-piercing establishment or the practitioner's license, or both.

(b) Order to deal with an immediate danger to public health. If there is reasonable cause to believe that any construction, sanitary condition, operation of the premises or of equipment or a procedural practice creates an immediate danger to health, an authorized employe or agent of the department may, pursuant to ss. 227.51 (3) and 252.04 (1) and (7), Stats., acting as the designee of the administrator of the department's division of health, and without written notice, issue a temporary order to remove the immediate danger to health. The order shall take effect upon delivery to the operator or other person in charge of the tattoo or body-piercing establishment and shall remain in effect for 14 days unless it

is terminated by the department by notice to the operator within that period or is kept in effect beyond that period, pending a hearing, by department notification to the operator. The order shall be limited to prohibiting specific procedures or methods of operation, or a combination of these, except that if a more limited order will not remove the immediate danger to health, the order may direct that all operations authorized by the license cease. If, before scheduled expiration of the temporary order, the department determines that the immediate danger to health does in fact exist and continues to exist, the temporary order shall remain in effect with notification to the operator. The department shall then notify the department of administration's division of hearings and appeals to schedule and hold a hearing under ch. 227, Stats., no later than 15 days after notification of the operator and to issue a final decision on the matter within 10 days after the hearing, unless the immediate danger to health is removed or the order is not contested and the operator and the department mutually agree that no purpose would be served by a hearing.

(3) PENALTY PROVISION. Pursuant to s. 252.25, Stats., any person who willfully violates or obstructs the execution of s. 252.23 or 252.24, Stats., or this chapter for which no other penalty is prescribed, shall be imprisoned for not more than 30 days or fined not more than \$500 or both. This shall include performing tattooing or body piercing without a license.

(4) APPEAL BY THE OPERATOR OR PRACTITIONER. Any operator or practitioner aggrieved by an order of the department under s. HFS 173.04 (2) or 173.11 (1) (d), or under sub. (2)(a), may request a hearing to challenge the order. A request for a hearing under this subsection shall be submitted to the department of administration's division of hearings and appeals and shall be received by that office within 15 days after issuance of the order. Procedures for hearings shall be in accordance with ch. 227, Stats. After the hearing, the division of hearings and appeals shall affirm, set aside or modify the order. The final decision may be appealed to the circuit court as provided in ch. 227, Stats.

Note: The mailing address of the division of hearings and appeals is P. O. Box 7875, Madison, Wisconsin 53707.

(5) LOCAL ENFORCEMENT. Notwithstanding subs. (2) and (4), if an agent issues licenses directly under s. 252.245, Stats, the agent shall create enforcement and appeal procedures in accordance with s. 66.124, Stats., which shall supersede enforcement and appeal procedures under subs. (2) and (4).

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

HFS 173.13 State fees. Pursuant to s. 252.245 (9), Stats. a local health department serving as an agent of the department for purposes of administering this chapter shall include a state fee in each fee the agent establishes for a license issued under this chapter. The state fee shall be 10% of the department's fee established under s. HFS 173.03 (1) or (2), and shall be forwarded to the department.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.