

CHAPTER 18
LICENSURE AND REGULATION OF BODY
PIERCING AND TATTOOING

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18.01 **AUTHORITY AND PURPOSE.** This Ordinance is adopted pursuant to that authority provided by Wis. Stats. §§ 252.23, 252.24, and 252.245; and by Wis. Admin. Code ch. HFS 173. The purpose of this Ordinance is to protect and improve the public health of the community by proper licensure and regulation of body piercing and tattooing establishments and to authorize the Sheboygan County Health and Human Services Department, by its Division of Public Health ("Division of Public Health"), to act as an agent for the State of Wisconsin's Department of Health and Family Services for the purposes set forth herein.

18.02 **APPLICABILITY.** This Ordinance shall apply to all body piercing and tattooing establishments within Sheboygan County, whether of a temporary or permanent nature.

18.03 **DEFINITIONS.**

Approved means acceptable to the Division of Public Health based on its determination of conformance to this Chapter and good public health practices.

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.

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.

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

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

Body piercing establishment means the permanent premises where a body piercer performs body piercing and is in business for more than seven (7) consecutive days in a license year.

Branding means the burning of skin with a hot tool, cauterizing laser, or dry ice so that a mark is imbedded in the deep tissue.

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

Department means the Wisconsin Department of Health and Family Services.

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

Division of Public Health means an authorized agent of the Sheboygan County Health and Human Services Department, Division of Public Health.

Hot water means water at a temperature of 110°F or higher.

Implantation means the insertion of an object under the skin so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.

Local health department means an agency of local government that takes any of the forms specified in Wis. Stat. § 250.01(4), specifically the Sheboygan County Health and Human Services Department, Division of Public Health.

Operator means the owner or person responsible to the owner for the operation of a tattoo or body piercing establishment.

Patron means a person receiving a tattoo or body piercing.

Practitioner means a tattooist or body piercer.

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

Scarification means the cutting of the skin so that when it heals, scar tissue remains.

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.

Single use means a product or item which is disposed of after one use, such as a razor, a needle, a cotton swab, a tissue or paper product, a paper or soft plastic cup, or gauze or other sanitary covering.

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

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.

Tattoo establishment means the permanent premises where a tattooist applies a tattoo to another person and is in business for more than seven (7) consecutive days in a license year.

Tattooist means a person who tattoos another person at that person's request.

Tempered water means water ranging in temperature from 85°F to less than 110°F.

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 seven (7) days per license year.

18.04 LICENSES.

(1) Generally.

(a) Any person, partnership, or corporation desiring to secure a tattoo establishment, body piercing establishment, combination tattoo/body piercing establishment,

tattooist and/or body piercer license shall make application to the Division of Public Health.

- (b) The application shall be on a form provided by the Division of Public Health and shall include:
 - 1. The names, addresses, dates of birth, and driver's license numbers of the applicant, any partner or limited partner in a partnership application, any shareholder holding ten percent (10%) of the stock of a corporate applicant and each corporate officer and director.
 - 2. Written proof that each person required to be identified herein is at least eighteen (18) years of age.
 - 3. The address of the establishment to be licensed.
 - 4. Information as to whether the applicant or any person required to be identified is currently operating or has previously operated in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in this Section has ever had such a license or permit suspended or revoked or has been convicted of a violation of state or local laws governing the practice of tattoo or body piercing, the reason for the suspension or revocation, and the business entity or trade name under which the applicant operated that was subject to the suspension, revocation, or conviction.
 - (c) Failure or refusal to complete the application and provide truthful responses to the application questions shall be grounds for a denial of the license.
 - (d) Application for a license shall be accompanied by payment of the application fee determined by the Division of Public Health.
 - (e) Within thirty (30) days of receiving a completed application for a license, the Division of Public Health shall act on the application. If an application for a license is denied, the Division of Public Health shall give the applicant reasons, in writing, for the denial and provide information on how the applicant may appeal that decision.
 - (f) A license will not be granted to an operator of a new establishment or to a new operator of an existing establishment without a pre-inspection. A pre-inspection fee will be assessed for each establishment according to the fee determined by the Division of Public Health.
 - (g) The operator of a tattoo or body piercing establishment shall promptly notify the Division of Public Health of an intention to cease operations and shall supply the Division of Public Health with the name and mailing address of the new operator. A license is not transferrable. A new operator must submit an application for a new license. No license shall be issued to or used by any person acting as an agent for or in the employment of another.
- (2) Establishment License.
- (a) No person may operate a body piercing or tattooing establishment or any combination thereof unless that person has obtained a license for the establishment from the Division of Public Health.
 - (b) No person shall engage in the practice of body piercing or tattooing except in a permanent, licensed tattoo and/or body piercing establishment.
 - (c) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this Chapter are met by the applicant.

- (d) No person shall intentionally engage in the practice of implanting, branding, or scarification within Sheboygan County unless performed pursuant to procedures or orders delegated by a licensed physician.
 - (e) Except as otherwise provided, a license issued under this Chapter shall expire or terminate on June 30 of each year and shall be renewed annually thereafter.
 - (f) The application for renewal shall be filed with the Division of Public Health on or before June 30 together with the payment of the required fee. The fee for said license shall be determined by the Health and Human Services Board and shall be on file with the Division of Public Health. In addition, the applicant must pay any state administrative fee. Said information shall be provided by the Division of Public Health.
- (3) Application for Practitioner License.
- (a) No person may tattoo or body pierce another person, use or assume the title of tattooist or body piercer, or designate him or herself as a body piercer unless the person has obtained a license from the Division of Public Health. An application submitted to the Division of Public Health shall be accompanied by the required fee which shall be on file with the Division of Health.
 - (b) No person shall engage in the practice of tattooing and/or body piercing except in a permanent tattoo and/or body piercing establishment.
 - (c) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this Ordinance are met by the applicant.
 - (d) A person applying for a practitioner's license must meet the requirements set out in Sections 18.07(1)(a) and (b).
- (4) Suspension or Revocation of License. The Division of Public Health may suspend or revoke any license issued pursuant to this Ordinance for violations of Ordinances or laws regulating activity or for other good cause.
- (5) Emergency Powers of Division of Public Health. Whenever the Division of Public Health has reason or probable cause to believe that the premises or methods of operation of a body piercing and/or tattoo establishment create an immediate danger to public health, the Division of Public Health may issue a temporary order prohibiting continued operation of the premises or any part thereof. The Division of Public Health may suspend a license without notice whenever the licensed premises, tattooist, and/or body piercer constitute an immediate health hazard.
- (6) Appeals. Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this Ordinance may appeal any such order to the Health and Human Services Board within thirty (30) days of denial, suspension, or revocation. The Health and Human Services Board shall provide the appellant an opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board may affirm, modify, or set aside the order of the Division of Public Health. The Board shall make and keep a record of all proceedings relating to any such appeal. The record and actions of the Board shall be subject to review by certiorari by a court of record.

18.05 LIMITATIONS.

- (1) Temporary establishments. The practice of body piercing and tattooing is limited to permanent body piercing and/or tattooing establishments.
- (2) Patron's consent. A body piercer or tattooist may not body pierce or tattoo a patron without first obtaining the signed, informed consent of the person on a form approved by the Department.
- (3) Minors.

- (a) No person under the age of sixteen (16) years of age may be body pierced.
 - (b) No person age sixteen (16) or seventeen (17) may be body pierced unless an informed consent form has been signed by his or her parent or legal guardian in the presence of the operator.
 - (c) No person under eighteen (18) years of age may be tattooed except by a physician in the scope of the physician's professional practice as permitted under Wis. Stat. § 948.70(3).
 - (d) 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 eighteen (18) without the signed and informed consent of that person's parent or legal guardian.
 - (e) A tattoo establishment shall post a sign in a conspicuous place in the establishment stating that no person under the age of eighteen (18) may be tattooed.
- (4) Procedures prohibited. A body piercer or tattooist may not body pierce or tattoo a person who appears to be under the influence of alcohol or a mind-altering drug or a person who has evident skin lesions or skin infections in the area of the intended procedure.

18.06 RECORDS.

- (1) Every body piercer and tattooist shall keep a record of each patron which shall be retained for a minimum of two (2) years following the completion of the procedure.
- (2) The records shall include the patron's name, address, age, and consent form, the name of the practitioner who performs the procedure, and any adverse effects arising from the procedure which are known or made known to the practitioner.

18.07 HEALTH AND SANITARY REQUIREMENTS.

- (1) Practitioner requirements.
 - (a) Prior to license approval, all practitioners shall provide proof to the Division of Public Health that they are negative for hepatitis B and C as demonstrated by documentation of negative results for HbsAG, anti-HBc, anti-HBs, and anti-HCV tests as confirmed by a practicing physician. The expense of testing and examination shall be paid by the practitioner.
 - (b) No body piercer or tattooist with an exposed rash, skin lesion, or boil may engage in the practice of tattooing or body piercing.
- (2) Hygienic procedure requirements.
 - (a) Tattooists and body piercers shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices during procedures.
 - (b) 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.
 - (c) Tattooists and body piercers shall dry their hands and arms with individual single-service towels.
 - (d) 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.
 - (e) Disposable-type razors shall be single-use only and disposed of in accordance with Wis. Admin. Code ch. NR 526. Electric razors are prohibited.

- (f) Body piercing and tattoo needles shall be disposable, sterile, and for single patron use only. Body piercing jewelry shall be cleaned, individually packaged, and sterilized prior to use.

18.09 PHYSICAL FACILITIES.

- (1) Body piercing and tattoo application areas shall maintain a minimum illumination of fifty- (50-) foot candles.
- (2) Body piercing and tattoo 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.
- (3) All body piercing and tattoo establishments shall have a public toilet and hand-washing facility which is separated from any living areas.
- (4) Toilet room fixtures shall be kept clean and in good repair. An easily cleanable covered waste receptacle shall be provided in the toilet room.
- (5) At least one hand-washing facility shall be conveniently located in the body piercing or tattoo area in addition to the hand-washing facility provided in the toilet room.
- (6) Anti-bacterial soap in a dispenser and single-service towels for drying hands shall be provided at all hand-washing facilities.
- (7) Hot and cold water shall be available at all hand-washing facilities.
- (8) 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 in connection with services provided to a patron.
- (9) Infectious waste, including sharps' waste, shall be stored and disposed of in an approved manner consistent with Wis. Admin. Code ch. NR 526, subch. II.
- (10) Instruments, dyes, pigments, stencils, and other body piercing and tattoo equipment shall be stored in closed cabinets exclusively used for that purpose.

18.10 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 observers or waiting patrons shall be in place or readily available at the patron's request. If the facility size does not allow space for this, the establishment shall be locked during the procedure to prevent unwanted observers' or patrons' entrance to the premises.

18.11 RESTRICTIONS.

- (1) No smoking or consumption of food or drink is permitted in the area where a body piercing or tattoo procedure is performed, except that patrons may consume a non-alcoholic beverage during the procedure.
- (2) No animals, except for those that provide for services to persons with disabilities, are permitted in a body piercing or tattoo establishment.

18.12 CLEANING.

- (1) After each use, body piercing and tattooing equipment shall be cleaned to remove blood and tissue residue before sterilization.
- (2) Tubes and body piercing equipment shall be placed in a covered stainless steel container of cleaning and disinfectant solution until they can be cleaned and sterilized.
- (3) All containers holding contaminated needles, tubes, reusable body piercing equipment, and container lids shall be cleaned and disinfected at least daily.

- (4) The tattoo machine shall be cleaned and disinfected before each use.
- (5) Gloved personnel shall clean needle tubes prior to sterilization by manually pre-cleaning the items with care to ensure removal of residue, thoroughly rinsing the items with warm water and draining the water, cleaning the items by soaking them in a protein dissolving detergent-enzyme cleaner used according to manufacturer's instruction, and cleaning the items further in an ultrasonic cleaning unit which operates at forty (40) to sixty (60) hertz and is used according to the manufacturer's instructions, and rinsing and drying all items.
- (6) 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.

18.13 STERILIZATION.

- (1) Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the Division of Public Health setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.
- (2) Prior to issuance of a tattoo or body piercing establishment license, the operator shall demonstrate the sterilization of equipment following the approved sterilization procedure set forth in Subsection (1), above. A spore test shall be conducted by the applicant and the license shall only be issued upon a negative spore result.
- (3) Equipment requiring sterilization shall be pressure-sterilized at the establishment in an autoclave and in accordance with manufacturer's instructions.
- (4) Each batch of sterilized equipment shall be monitored for sterilization by use of heat-sensitive indicators capable of indicating approximate time and temperature achieved.
- (5) Autoclaves shall be spore-tested at least monthly. Spore kill test effectiveness shall be conducted by an independent laboratory.
- (6) Sterilized equipment shall be wrapped or covered and stored in a manner which will ensure that it will remain sterile until used.
- (7) Each tattoo or body piercing establishment shall maintain sterilization records, including spore tests for at least one (1) year from the date of the last entry, which shall include the following information:
 - (a) Date of sterilization;
 - (b) Name of person operating the equipment; and
 - (c) Result of heat-sensitive indicator.
- (8) Sterilized equipment shall be re-sterilized if the package is opened, damaged, or becomes wet.
- (9) All methods of sterilization other than autoclaving are prohibited.

18.14 PREPARATION AND CARE OF SITE. Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the Division of Public Health setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.

18.15 PREPARATION BY PRACTITIONER. Before beginning a procedure, the tattooist or body piercer shall clean the skin area for the tattooing or piercing and prepare it with antiseptic. The solution shall be applied with cotton, gauze, or single-use toweling.

18.16 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 piercing. Prior to

issuance of the tattoo or body piercing establishment license, a copy of the written care instructions shall be submitted to the Division of Public Health for approval.

18.17 INSPECTIONS.

- (1) The Division of Public Health will conduct at least one (1) complete inspection between September 1 and August 31 of every tattoo and body piercing establishment.
- (2) The Division of Public Health shall conduct a pre-licensing inspection for all new establishments and establishments having a change of operator prior to the new or changed operator opening the established business.
- (3) The Division of Public Health shall conduct an investigation when it receives information that a contagious disease or infection has resulted from a tattoo or body piercing procedure.
- (4) If an annual, pre-licensing, or complaint investigation indicates corrections that must be made to ensure compliance with this Ordinance, the Division of Public Health shall conduct a return visit as appropriate to ensure compliance with corrective measures.

18.18 ENFORCEMENT.

- (1) The Division of Public Health may enter any establishment required to be licensed in this Ordinance at all reasonable times to inspect the premises, view the practice (with patrons' permission), secure samples or specimens, examine and copy documents, obtain photographs, or take any other action deemed necessary to properly enforce the provisions of applicable laws regulating the business or activity.
- (2) Whenever the Division of Public Health finds that any establishment, tattooist, or body piercer required to obtain a license under this Ordinance is not operating or equipped in any manner required by the Ordinance or other applicable laws or regulations, the Division of Public Health shall notify, in writing, the person operating the premises or performing the activity, specifying the requirements of the Ordinance or applicable law or regulations and requiring that such business or practitioner comply with said provisions. The Division of Public Health shall specify time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Division of Public Health.

18.19 PENALTIES. Any person who violates or refuses to comply with any provisions of this Ordinance shall be subject to a forfeiture of Two Hundred Fifty Dollars (\$250.00) for each offense and/or revocation or amendment of the applicable permit, plus applicable costs. Each day a violation exists or continues shall be considered a separate offense. Where appropriate, injunctive relief may be sought by the Sheboygan County Health and Human Services Department against continuing violations.