

Chapter SPS 221

TATTOOING AND BODY PIERCING

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Note: Chapter HFS 173 was renumbered chapter DHS 173 effective February 1, 2009, and corrections made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637. **Chapter DHS 173 was renumbered chapter SPS 221 under s. 13.92 (4) (b) 1., Stats., Register December 2015 No. 720.**

SPS 221.01 Authority and purpose. This chapter is promulgated under the authority of ss. 463.10 (4), 463.12 (4) and 463.16 (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; CR 08-073: renum. from HFS 173.01 Register January 2009 No. 637, eff. 2-1-09; **correction under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.02 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; CR 08-073: renum. from HFS 173.02 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.03 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. 463.16 (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 department of safety and professional services.

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

(11m) "Establishment" means a body-piercing establishment, a tattoo establishment, or combined tattoo and body piercing establishment.

(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; CR 08-073: renum. from HFS 173.03 and am. (10), cr. (11m) Register January 2009 No. 637, eff. 2-1-09; correction in (1) under s. 13.92 (4) (b) 7., Stats., correction in (10) under s. 13.92 (4) (b) 6., Stats., Register December 2015 No. 720.

SPS 221.04 Licenses. (1) LICENSE REQUIRED. (a) *Establishments.* 1. No person may operate an establishment until the person has obtained a license from the department or its agent by submitting an application under sub. (3) and paying the applicable fee specified under s. SPS 221.05. A separate license is required for each establishment.

Note: Local health departments that are agents for the department have authority under s. 463.16 (4), Stats., to establish and collect fees for licenses issued by the local health department. If your establishment was licensed by a local health department, contact the local health department for its license fee schedule.

2. The operator of an establishment shall notify the department or its agent of the operator’s intention to cease operations and shall supply the department with the name and mailing address of any new operator. An establishment license is not transferable. If an operator sells or otherwise transfers ownership or operation of an establishment to another person, a new initial license is required, and the establishment may not be opened to the public until the department has issued a new initial license.

(b) *Practitioner.* 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 under sub. (3).

(2) **LICENSE DURATION AND RENEWAL.** (a) Each establishment and practitioner’s license issued under this chapter shall expire on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year.

(b) Each license shall be renewed annually as provided in sub. (3) (b).

(3) **LICENSE APPLICATION.** (a) *Initial license.* Application for an initial or new practitioner or establishment license shall be made on an application form furnished by the department or its agent and accompanied by all of the following:

1. The applicable fees specified under s. SPS 221.05 and any fees previously due to the department or its agent.

Note: Local health departments that are agents for the department have authority under s. 463.16 (4), Stats., to establish and collect fees for licenses issued by the local health department. If your establishment was licensed by a local health department, contact the local health department for its license fee schedule.

2. Information, as determined by the department or its agent, indicating that the establishment will be maintained and operated in compliance with applicable federal and state laws and that rules have been implemented for the operation of the establishment that will protect the health, safety, and welfare of the public.

(b) *Renewal license.* 1. To renew the license of an establishment, the operator shall pay the department, the applicable establishment license fee specified under s. SPS 221.05 before the license expires. If the payment to renew the license of an establishment is not made to the department before the expiration date of the establishment license, the late fee specified under s. SPS 221.05 (2) (c) shall be paid in addition to the license fee.

2. To renew a practitioner’s license, the practitioner shall pay the department the fee specified under s. SPS 221.05 before the license expires.

Note: Local health departments that are agents for the department have authority under s. 463.16 (4), Stats., to establish and collect fees for licenses issued by the local health department. If your establishment was licensed by a local health department, contact the local health department for its license fee schedule.

(4) **DEPARTMENT AND AGENT ACTION ON LICENSE APPLICATION.**

(a) The department or its agent shall issue or deny a license within

30 days after receiving a complete application, all applicable fees, and the other information required under sub. (3).

(b) Except as provided in ss. 440.13 and 463.14, Stats., the initial issuance, renewal or continued validity of a license issued under this subsection may be conditioned upon the requirement that the licensee correct a violation of this chapter, s. 463.10 or 463.12, Stats., or ordinances adopted under s. 463.16, Stats., within the period of time specified. If the condition is not met within the specified time or after an extension of time as approved by the department, the license is void. No person may operate an establishment or practice as a tattooist or body piercer after the person’s license has been voided under this paragraph, and any person who does may be subject to the penalties under s. 463.18, Stats. A person whose license is voided under this paragraph may appeal the decision under s. SPS 221.08.

(c) The department or its agent may refuse to issue or renew a license to operate an establishment under any of the following circumstances:

1. The department or its agent has not conducted a preinspection of an establishment for which an initial or new license is required under sub. (1).

2. The operator of an establishment has not corrected a condition for which the department or agent has issued a written health or safety-related order.

3. All applicable fees owed to the department or its agent have not been paid, including the license fee, preinspection fee, reinspection fee, or other applicable fees.

4. The operator has modified, repaired or maintained the establishment in a manner that is not in accordance with what the department recognizes as safe practice as outlined in this chapter.

5. The operator, license applicant, or licensee has failed to provide the department or its agent with information required under sub. (3).

6. The operator or license applicant has violated ch. 463, Stats., this chapter, or any order, ordinance, or regulation created by a village, city, county, or local board of health having jurisdiction, provided such violation is related to the operation of an establishment.

(d) The department may refuse to issue or renew a license to practice as a tattooist or body piercer if the practitioner or applicant for a practitioner’s license has violated ch. 463, Stats., this chapter, or any order, ordinance, or regulation created by a village, city, county, or local board of health having jurisdiction, provided such violation is related to the operation of an establishment or the practice of tattooing or body piercing.

(e) If the department or its agent denies an application for a license, the applicant shall be given reasons, in writing, for the denial and information regarding appeal rights under s. SPS 221.08.

(5) **VOIDED LICENSE FOR FAILURE TO PAY FEES.** If a license applicant, operator, or practitioner fails to pay all applicable fees and processing charges under s. SPS 221.05 within 15 days after the license applicant, operator, or practitioner receives notice of an insufficiency under s. SPS 221.05, or within 45 days after the expiration of the license, whichever occurs first, the license is void. An operator or practitioner whose license is voided under this subsection may appeal the decision under s. SPS 221.08. In an appeal concerning a voided license under this subsection, the burden is on the license applicant, operator, or practitioner to show that the entire applicable fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of an establishment, or practice as a tattooist or body piercer, is deemed to be operation or practice without a license and is subject to the fees under s. SPS 221.05 (2) (e) in addition to the fees otherwise due, unless the license applicant, operator, or practitioner meets its burden of proof under this subsection.

(7) **DISPLAY OF LICENSE.** The operator of an establishment shall display in the establishment, in a place visible to the public, the licenses issued by the department or its agent for the establishment and for all practitioners working in the establishment. A license may not be altered or defaced.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; CR 08-073; renum. from HFS 173.04, r. and recr. Register January 2009 No. 637, eff. 2-1-09; **correction in (1), (3) (a) 1., (b), (4) (b), (c) 6., (d), (e), (5) under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.05 Department fees. (1) FEE SCHEDULES. The fees listed in Table SPS 221.05 A shall apply to licenses issued from April 1, 2009 through March 31, 2011. The fees listed in Table SPS 221.05 B shall apply to licenses issued on or after April 1, 2011.

Note: Local health departments that are agents for the department have authority under s. 463.16 (4), Stats., to establish and collect fees for licenses issued by the local health department. If your establishment was licensed by a local health department, contact the local health department for its license fee schedule.

(2) **TYPES OF FEES.** (a) *Preinspection fee.* The operator of an establishment shall, pursuant to sub. (1), pay the applicable preinspection fee listed in Table SPS 221.05 A or B to the department before an initial or new license is issued under s. SPS 221.04.

(b) *License fee.* 1. 'Establishment'. The operator of an establishment shall, pursuant to sub. (1), pay the applicable license fee listed in Table SPS 221.05 A or B to the department for each establishment that the operator applies for a license to operate under s. SPS 221.04 (1) or (2).

2. 'Practitioner'. A practitioner shall, pursuant to sub. (1), pay the applicable license fee listed in the Table SPS 221.05 A or B to the department.

(c) *Late fee.* If the license fee for a license renewal is not paid before the expiration date of the license, the operator shall pay to the department a late fee of \$85.00 in addition to the renewal license fee.

(d) *Reinspection fee.* If the department conducts a reinspection of an establishment under s. SPS 221.06 (1) (b), the operator shall, pursuant to sub. (1), pay to the department the applicable reinspection fee listed in Table SPS 221.05 A or B. The department shall assess an additional reinspection fee as listed in Table SPS 221.05 A or B, whichever is applicable, for any additional reinspection conducted under s. SPS 221.06 (1) (b) 4.

(e) *Fees for operating without a license.* An establishment found to be operating without a license shall pay to the department an amount of \$749.00, in addition to all applicable fees and any processing charges under s. SPS 221.04 (5). A practitioner found to be practicing without a license shall pay to the department \$150, in addition to all applicable fees and any processing charges under s. SPS 221.04 (5).

Note: Any person who willfully violates or obstructs the execution of any state statute or rule, county, city or village ordinance or departmental order under this chapter and relating to the public health, for which no other penalty is prescribed, shall be imprisoned for not more than 30 days or fined not more than \$500 or both.

(f) *Duplicate license.* The department shall charge the operator or practitioner, as applicable, \$15.00 for a duplicate license.

(g) *Fees for special condition inspections.* For inspection or consultation activities that are not directly related to the department's licensing responsibilities, the department shall charge the operator or the entity requesting the inspection or consultation \$175.00.

(3) **METHOD OF PAYMENT.** If the payment for an initial or renewal license is by check or other draft drawn upon an account containing insufficient funds, the applicant or owner shall, within 15 days after receipt of notice from the department of the insufficiency, pay all applicable fees under sub. (1) and the financial institution's processing charges by cashier's check or other certified draft, money order, or cash.

**Table SPS 221.05 A
Fee Schedule — SFY 2010
For licenses issued April 1, 2009 through March 31, 2011**

Type of License	License Fee	Preinspection Fee	First Reinspection Fee	Second and Subsequent Reinspection Fee
Tattoo Establishment	\$125	\$240	\$113	\$150
Body Piercing Establishment	\$125	\$240	\$113	\$150
Combined Tattoo and Body Piercing Establishment	\$205	\$375	\$180	\$240
Practitioner	\$50			
Temporary Establishment	\$100			

Table SPS 221.05 B
Fee Schedule — SFY 2012
For licenses issued on or after April 1, 2011

Type of License	License Fee	Preinspection Fee	First Reinspection Fee	Second and Subsequent Reinspection Fee
Tattoo Establishment	\$135	\$255	\$135	\$180
Body Piercing Establishment	\$135	\$255	\$135	\$180
Combined Tattoo and Body Piercing Establishment	\$220	\$400	\$221	\$295
Practitioner	\$60			
Temporary Establishment	\$100			

History: CR 08-073; cr. Register January 2009 No. 637, eff. 2-1-09; **correction in (1), (2) (a), (b), (d), (e), Tables A and B under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.06 Enforcement. (1) INSPECTIONS AND ACCESS TO THE PREMISES. (a) *Inspections.* Under s. 463.10, 463.12, or 463.16, Stats., an authorized employee or agent of the department, upon presenting proper identification, may enter any establishment at any reasonable time, for any of the following purposes:

1. To inspect the establishment.
2. To determine if there has been a violation of this chapter, s. 463.10 or 463.12, Stats., or an ordinance enacted under s. 463.16, Stats.
3. To determine compliance with previously written violation orders.
4. To secure samples or specimens.
5. To examine and copy relevant documents and records provided such information is related to the operation of the establishment.
6. To obtain photographic or other evidence needed to enforce this chapter.

(b) *Reinspections.* 1. The department or its agent may reinspect an establishment whenever an inspection or the investigation of a complaint reveals the existence of a violation that is potentially hazardous to the health and welfare of patrons or employees of the establishment.

2. A reinspection shall be scheduled to allow the operator a reasonably sufficient time to correct the deficiencies.

3. A reinspection fee shall be charged for the reinspection according to Table SPS 221.05 A or B, or applicable charges as determined by an agent of the department.

4. If an additional reinspection is required because a violation has not been corrected in the scheduled time, the department shall assess the operator an additional reinspection fee. The department may order the operator to show just cause why the license should not be suspended or revoked under s. SPS 221.07.

(2) GENERAL ORDERS TO CORRECT VIOLATIONS. (a) If upon inspection of an establishment, the department or agent finds that the establishment is not designed, constructed, equipped or operated as required under this chapter, the department or agent shall issue a written order to correct the violation. The order shall specify the correction needed for compliance and the time period within which the correction should be made. The time period specified in the order may be extended at the discretion of the department or agent.

(b) If the order to correct a violation is not carried out by the expiration of the time period stated in the order, or any extension of time granted by the department or agent, the department or agent may suspend or revoke the license to operate the establishment.

(c) Any person who fails to comply with an order of the department shall forfeit \$10 for each day of noncompliance after the order is served upon or directed to him or her. A person may appeal a forfeiture under s. SPS 221.08.

(3) TEMPORARY ORDERS. (a) As provided under s. 227.51 (3), Stats., whenever the department or agent has reasonable cause to believe that an immediate danger to health or safety exists as a result of an inspection under sub. (1), the department or agent may issue a temporary order without advance notice or hearing to do any of the following:

1. Prohibit the continued operation or method of operation of specific equipment.
2. Require the premises to cease operations and close until remedies are applied which eliminate the immediate danger to health or safety.
3. Require a practitioner to cease tattooing or body piercing.

(b) 1. A temporary order shall take effect upon delivery to the operator, establishment, or practitioner, as applicable. Except as provided in par. (c), the temporary order shall remain in effect for 14 days from the date of delivery. A temporary order may be reissued for one additional 14-day period if necessary to complete any analysis or examination of samples, specimens, or other evidence.

2. No operation or method of operation prohibited by the temporary order may be resumed without the approval of the department or agent until the order has terminated or the time period specified in subd. 1. has expired, whichever occurs first. If, upon completed analysis or examination, the department or agent determines that construction, sanitary condition, operation or method of operation of the premises or equipment does not constitute an immediate danger to health or safety, the department or agent shall immediately notify the operator or responsible supervisor in writing and the temporary order shall terminate upon receipt of the written notice.

(c) If the analysis or examination shows that the construction, sanitary condition, operation or method of operation of the premises or equipment constitutes an immediate danger to health or safety, the department or agent, within the effective period of the temporary order specified in par. (b) 1., shall provide written notice of the findings to the operator or responsible supervisor. Upon receipt of the notice, the temporary order remains in effect until a final decision is issued under s. SPS 221.08. The notice shall include a statement that the facility has a right to request a hearing under s. SPS 221.08 within 15 days after issuance of the notice.

(d) Pursuant to s. 463.18, Stats., any person who willfully violates or obstructs a departmental order relating to the public health, for which no other penalty is prescribed, shall be impris-

oned for not more than 30 days or fined not more than \$500 or both.

History: CR 08-073: cr. Register January 2009 No. 637, eff. 2-1-09; **correction in (1) (a), 2., (b) 3., 4., (2) (c), (3) (a) (intro.), (c), (d) under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.065 Level III local health department. A level III local health department shall do all of the following:

(1) Conduct inspections and investigations, issue licenses and enforce the department's rules, ch. SPS 221, promulgated under ss. 463.10 (4) and 463.12 (4), Stats., for regulation of tattooists and tattoo establishments and regulation of body piercers and body-piercing establishments, upon entering into an agreement with the department under s. 252.245, Stats., to serve as the department's agent for this purpose in the local health department's area of jurisdiction.

History: Renum. from DHS 140.06 (1) (d) under s. 13.92 (4) (b) 1., Stats., Register December 2015 No. 720; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.

SPS 221.07 Suspension or revocation of license.

The department may, after a hearing under s. SPS 221.08, suspend or revoke a license for violation of s. 463.10 or 463.12, Stats., this chapter, or an order issued by the department. The suspension or revocation order shall take effect 15 days after the date of issuance unless a hearing is requested under s. SPS 221.08 (1).

History: CR 08-073: cr. Register January 2009 No. 637, eff. 2-1-09; correction made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637; **correction under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.08 Appeals of actions by the department.

(1) (a) Except as specified under sub. (2) or (3), a request for a hearing to contest denial of a license, a voided license, suspension, revocation, forfeiture, or order given under s. SPS 221.06 (1) (b) 4. or (2), shall be submitted in writing to the department of administration's division of hearings and appeals within 15 days after receipt of the notice of the department's action.

(b) A request for hearing that is mailed to the division of hearings and appeals shall be considered filed with the division on the date of the postmark.

(c) A request for hearing that is hand-delivered to the division of hearings and appeals shall be considered filed on the date the request is received by the division of hearings and appeals.

(d) A request for hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transaction report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.

Note: A request for hearing can be submitted by mail or hand-delivered to the Division of Hearings and Appeals, at 5005 University Ave., Room 201, Madison, WI 53705-5400, or faxed to the Division at (608) 264-9885.

(2) As a condition for requesting a hearing to appeal the voiding of a license, a license applicant or operator, or practitioner, as applicable, shall comply with sub. (4). In an appeal concerning voiding a license, the burden is on the applicant or owner to show that the entire applicable fees and processing charges have been paid.

(3) A request for hearing on a temporary order given by the department under s. SPS 221.06 (3) shall be made in writing to the department within 15 days of receipt of the order. The department shall hold a hearing within 15 days after the department receives the written request for hearing, unless the department and the appellant agree to a later date, the immediate danger to health is removed, the order is not contested or the appellant and the department mutually agree that no purpose would be served by a hearing. A final decision shall be issued under s. 227.47, Stats., within 10 days following the conclusion of the hearing. The decision may order any of the following to remove the danger to health:

(a) Changes to or replacement of equipment or construction.

(b) Changes in or cessations of any operation or method of operation of the equipment or premises.

(4) If the department voids a license under s. SPS 221.04 (5), for failure to pay fees, the licensee shall submit, within 15 days after receipt of the notice of the department's action, documentary evidence that all applicable fees, late fees and processing charges have been paid and that there are no outstanding payments due to the department.

History: CR 08-073: cr. Register January 2009 No. 637, eff. 2-1-09; **correction in (1) (a), (3) (intro.), (4) under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.09 Appeals of actions by agent health departments.

If an agent issues licenses directly under s. 463.16, Stats., the agent shall create enforcement and appeal procedures in accordance with s. 66.0417, Stats., which shall supersede enforcement and appeal procedures under s. SPS 221.08 (2) and (4).

History: CR 08-073: cr. Register January 2009 No. 637, eff. 2-1-09; **correction under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.**

SPS 221.10 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.

(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; CR 08-073: renum. from HFS 173.05 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.11 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; CR 08-073; renum. from HFS 173.06 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.12 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; CR 08-073; renum. from HFS 173.07 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.13 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; CR 08-073; renum. from HFS 173.08 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.14 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; CR 08-073; renum. from HFS 173.09 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.15 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; CR 08-073; renum. from HFS 173.10 Register January 2009 No. 637, eff. 2-1-09.

SPS 221.16 Temporary establishments. In addition to requirements under ss. SPS 221.01 to 221.15 that apply to all

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. SPS 221.04 (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; CR 08-073; renum. from HFS 173.11, am. (intro.) Register January 2009 No. 637, eff. 2-1-09; correction made in (1) (a) under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637; correction in (intro.), (1) (a) under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.

SPS 221.17 State fees. Pursuant to s. 463.16 (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 license fee established under s. SPS 221.05 (2) (b) 1., and shall be forwarded to the department.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; CR 08-073; renum. from HFS 173.13 and am. Register January 2009 No. 637, eff. 2-1-09; correction under s. 13.92 (4) (b) 7., Stats., Register December 2015 No. 720.