

LOCAL LAW NO. 4 FOR 1999

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK REGULATING
TATTOOING AND BODY PIERCING

Introduced: 7/12/99

By Mr. Domalewicz:

BE IT ENACTED by the Legislature of the County of Albany as follows:

Section 1. Legislative Intent and Purpose.

This Legislature finds that the practice of tattooing and body piercing involves the alteration or penetration of the skin, which, if done improperly, can lead to potential health risks. Therefore, the purpose of this law pursuant to the County's exercise of its inherent power to protect the public health, safety and general welfare of its citizens is to establish County wide minimum standards for the regulation of tattoo and/or body piercing shops in municipalities within Albany County which are not requiring tattoo shops or body piercing shops to comply with the requirements herein and in municipalities with less stringent standards regulating tattoo shops or body piercing shops than are established by this local law. The promulgation of such County wide minimum standards shall not be construed as authorizing the practice of tattooing or body piercing in any locality within Albany County where such practice may be currently banned.

Section 2. Definitions.

The following words and phrases, as used in this local law shall have the indicated meaning:

(a) "Adequate light" shall mean that the tattoo and/or body piercing shop be so illuminated as to permit all tattooing and/or body piercing to be clearly visible without obstruction by shadow or darkness.

(b) "Adequate ventilation" shall mean a free and unrestricted circulation of fresh air throughout the tattoo and/or body piercing shop and the expulsion of foul or stagnant air.

(c) "Department" shall mean the Albany County Department of Health.

(d) "Health Officer" shall mean the Albany County Commissioner of Health or his/her designee.

(e) "Minor" shall mean any person under the age of eighteen years.

(f) "Shop certificate of sanitation" shall mean the issuance of a document by the Health Officer to a tattoo and/or body piercing shop certifying that

said shop, after inspection, was found to be in compliance with the applicable provisions of this local law.

(g) "Tattoo" shall mean to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.

(h) "Body piercing" shall mean to cut or pass through with a sharp instrument, or to penetrate a part of the body other than the ear for the purpose of applying jewelry for compensation to various parts of the body by means of a piercing device. If the body piercing is offered in conjunction with the sale of jewelry actually being used in connection with the body piercing, then that service shall be deemed to have been provided for compensation.

(i) "Piercing device" shall mean any device used for the piercing of the skin for the purpose of applying jewelry or other objects to the body.

(h) "Tattoo and/or body piercing artist" shall mean any person who actually performs the work of tattooing and/or body piercing.

(i) "Tattoo and/or body piercing artist certification" shall mean the issuance by the Health Officer of a written instrument authorizing the person named therein to engage in the practice of tattooing and/or body piercing or to act as a tattoo and/or body piercing artist.

(j) "Tattoo and/or body piercing operator" shall mean any person who controls, operates, conducts or manages any tattoo and/or body piercing shop, whether actually performing the work of tattooing or body piercing or not.

(k) "Tattoo and/or body piercing shop" shall mean any room or space where tattooing or body piercing is practiced or where the business of tattooing or body piercing is conducted or any part thereof.

(l) "Single Use" shall mean products or items that are intended for one-time, one-person use and are disposed of after use on each patron including, but not limited to, cotton swabs or balls, tissues or paper products, paper cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

Section 3. Tattoo and/or Body Piercing Artist Certification.

- a. No person except a duly licensed physician shall engage in the practice of tattooing or body piercing or act as a tattoo and/or body piercing artist unless such person has a tattoo and/or body piercing artist certification issued by the Health Officer on a form prescribed by the Department. The applicant shall pay a reasonable fee as set by the Department for each tattoo and/or body piercing artist certification. Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear

piercing system are exempt from the requirements of this local law. Individuals who use ear piercing systems must conform to the manufacturer's directions on the use and applicable US Food and Drug Administration requirements. The Department shall have the authority to investigate consumer complaints relating to alleged misuse or improper disinfection of ear piercing systems.

- b. No holder of any shop certificate of sanitation issued under this local law shall allow a tattoo and/or body piercing artist to perform in such tattoo and/or body piercing shop unless such tattoo and/or body piercing artist is a holder of a valid tattoo and/or body piercing artist certification issued under this section.
- c. Any person desiring to engage in tattooing or body piercing or act as a tattoo and/or body piercing artist shall submit an application for a tattoo and/or body piercing artist certification to the Health Officer in the form prescribed by the Department.
- d. Each applicant shall be required to take and pass an examination prescribed by the Department before an initial tattoo and/or body piercing artist certification will be issued.
- e. The applicant shall be required to demonstrate, by examination, knowledge of the provisions of this local law, including those relating to aseptic technique designed to prevent the spread of infection and contagious disease by tattooing or body piercing practices.
- f. Records of all such certifications shall be kept on file by the holder of the shop certificate of sanitation for the tattoo and/or body piercing shop employing the person to whom a certification as a tattoo and/or body piercing artist has been issued.
- g. A tattoo and/or body piercing artist certification shall expire on December 31 of each year, renewable annually in December for the period next commencing January one.

Section 4. Shop Certificate of Sanitation.

- a. No person shall operate a tattoo and/or body piercing shop unless such person has registered such shop with the Health Officer and has received a shop certificate of sanitation from the Health Officer on a form prescribed by the Department. The applicant shall pay a reasonable fee as set by the Department for each shop certificate of sanitation.
- b. No shop certificate of sanitation shall be issued or renewed unless the shop has been inspected and found to be in compliance with the applicable provisions of this local law.

- c. The shop certificate of sanitation shall expire on December 31 of each year renewable annually in December for the period next commencing January one.

Section 5. General Physical Environment.

- a. Tattoo and body piercing shops must have adequate light and ventilation and all walls and ceilings shall be smooth and easily cleaned. Walls and ceilings are to be painted a light color.
- b. The floor of the tattoo and/or body piercing shop shall be of impervious material. The floor shall be swept and wet mopped daily. Floors, walls, or ceilings shall not be swept or cleaned while tattooing or body piercing is in operation.
- c. Convenient, clean, and sanitary toilet and hand washing facilities with hot and cold running water with soap and single use towels or hand drying devices shall be made accessible to customers.
- d. The tattoo and/or body piercing operator shall provide for the proper and safe disposal of all types of waste products.
- e. The building and equipment shall be maintained in a state of good repair at all times. The shop premises shall be kept clean, neat, and free of litter and rubbish.

Section 6. Work Room.

- a. Each tattoo and/or body piercing shop shall have a work room separate and apart from a waiting room or any room or rooms used as such. The work room shall not be used as a corridor for access to other rooms. Patrons or customers shall be tattooed and/or body pierced only in said work room.
- b. The work room shall be equipped with hot and cold running water and necessary sinks and basins.
- c. The sinks or basins shall be for the exclusive use of the tattoo and/or body piercing artist for washing hands and preparing customers for tattooing or body piercing. They shall be equipped with wrist-action controls, soap, a United States Environmental Protection Agency (EPA) approved or hospital grade germicidal solution, individual hand brushes, and fingernail files for each tattoo and/or body piercing artist.
- d. The tattoo and/or body piercing artist's hands shall be washed and then dried by individual paper towel, napkin, or mechanical means. In addition, disposable gloves shall be worn.

- e. Cabinets for the storage of instruments, dyes, pigments, carbon, and stencils shall be provided for each tattoo and/or body piercing artist and shall be maintained in a sanitary manner.
- f. Work tables shall be provided for each tattoo and/or body piercing artist. The surface of all work tables shall be constructed of metal or other material which is smooth, light colored, non-absorbent, corrosive-resistant, and easily sanitized.
- g. Certified tattoo and/or body piercing artists may not set up temporary facilities at fairs, festivals or expositions unless written approval is obtained from the Health Officer.
- h. Smoking and the consumption of alcoholic beverages are prohibited in the work room.

Section 7. Operation Standards - Records

- a. For each patron, proper records of tattoos and/or body piercings administered shall be maintained by the holder of a shop certificate of sanitation.
- b. A record of each patron shall be prepared prior to any procedure being performed and shall include the patron's name, signature, address, age, the date tattooed or body pierced, the design of the tattoo, if applicable, the location of the tattoo and/or body piercing on the patron's body, and the name of the tattoo and/or body piercing artist who performed the work.
- c. The records shall be entered in ink or indelible pencil in a bound book kept solely for this purpose. This book shall be available at a reasonable time for examination by the Health Officer and shall be preserved for at least three years from the date of the last entry therein. The signature of the patron shall be in the bound book record.
- d. Before tattoo and/or body piercing administration, there shall be a discussion conducted with the patron on the risks involved in the tattoo and/or body piercing requested, and its possible complications. The patron shall fill out and sign an information form as prescribed by the Department. One copy of each form shall be retained at the tattoo and/or body piercing shop and the other copy shall be given to the patron. The tattoo and/or body piercing artist must also explain aftercare instructions and have the patron initial the consent form to indicate that he or she has received written aftercare instructions.

Section 8. Operation Standards - Consent

- a. Written consent for tattooing or body piercing of minors, when legally permissible, shall be obtained from at least one parent or legal guardian. The writing shall be notarized and filed in person at the tattoo and/or body

piercing shop. Proof of age shall be determined upon presentation of two forms of valid identification. Valid identification shall include: a picture driver's license, picture sheriff's identification or birth certificate.

- b. The records of the written consents shall be kept on file for three years by the holder of the shop certificate of sanitation for the tattoo and/or body piercing shop in which the tattoo and/or body piercing was performed.

Section 9. Tattooing and Body Piercing Procedures

- a. There shall be printed or mimeographed instructions, as approved by the Department, given to each patron or customer on the care of the skin after tattooing or body piercing as a precaution to prevent infection.
- b. A tattoo and/or body piercing artist shall not tattoo and/or body pierce any person who is under the apparent influence of drugs or intoxicating liquor.
- c. Each tattoo and/or body piercing artist must wear a clean outer garment.
- d. Tattoo and/or body piercing artists who are experiencing symptoms such as diarrhea, vomiting, fever, rash, productive cough, jaundice or draining (or open) skin infections such as boils, impetigo or scabies must refrain from tattooing or body piercing activities.
- e. The Health Officer may require from a tattoo and/or body piercing artist found to have any disease in communicable form or suspected of having such a disease, a certificate signed by a duly licensed physician stating that the person is free from communicable diseases before permission to resume operation as a tattoo and/or body piercing artist is granted.
- f. Before working on each patron, the fingernails of the tattoo and/or body piercing artist shall be cleaned with an individual nail file and the hands thoroughly washed and scrubbed with hot running water, soap, and individual hand brush.
- g. The tattoo and/or body piercing artist's hands shall be dried only with the use of a disposable towel or other mechanical means.
- h. When necessary to shave the area to be tattooed or body pierced, only single use sterilized and disposable safety razors shall be used.
- i. Following the cleaning and shaving of the patron's skin, the hands of the tattoo and/or body piercing artist shall again be washed and scrubbed as required by paragraph g of this section. Disposable gloves shall then be worn by the tattoo and/or body piercing artist.
- j. Before placing the design on the patron's skin or penetrating the patron's skin, the tattoo and/or body piercing artist shall treat the skin area with an

EPA approved or hospital grade germicidal solution which shall be applied with sterile cotton or sterile gauze. Only sterile petroleum jelly (petrolatum) shall be applied to the area to be tattooed or body pierced and only from single use collapsible metal or plastic tubes. The application may be spread by the use of sterile gauze but not directly with the fingers.

- k. The use of single use tissue and sterile hectographic stencils shall be required for applying a tattoo outline on the skin. Multi-use stencils shall be prohibited. If drawn free hand, non toxic markers or other devices as approved by the Department shall be used.

Section 10. Dyes or Pigments

- a. In preparing nontoxic dyes or pigments to be used by a tattoo artist, only nontoxic or sterile material shall be used. Single use or individual portions of dyes or pigments in clean, sterilized individual containers or single use containers must be used for each patron.
- b. After tattooing, the remaining unused dye or pigment in the single use or individual containers must be properly discarded.
- c. All dyes or pigments used in tattooing shall be from batches certified by the Federal Food and Drug Administration. (For informational purposes, see Chapter 51, Federal Food, Drug and Cosmetic Act; 21 U.S.C. Section 301 et seq.)

Section 11. Single-Use Disposable Needles and Sterilization.

- a. A set of individual, single-use disposable sterilized needles shall be used by a tattoo and/or body piercing artist for each new patron.
- b. Sterilization of equipment and devices as required by the Health Officer shall be accomplished by holding in an autoclave for 30 minutes at 15 pounds pressure at a temperature of 250 degrees Fahrenheit or 121 degrees Celsius.
- c. As determined by the Health Officer, equipment and devices may be sterilized by using dry heat sterilization accomplished by 320 degrees Fahrenheit (160 degrees Celsius) for not less than one hour under atmospheric pressure after the sterilizer has reached the required temperature.
- d. Equipment and devices which are unable to be sterilized in an autoclave or via dry heat sterilization shall be cleaned and sterilized with an EPA approved or hospital grade germicidal solution before each use.

Section 12. After Care of Tattoo and Body Piercing

- a. The completed tattoo and/or body piercing shall be washed with a piece of sterile gauze or sterile cotton saturated with an EPA approved or hospital

grade germicidal solution from a single use container. It shall be allowed to air dry.

- b. After drying, anti-bacterial ointment shall be applied from a collapsible metal or plastic tube and the entire area covered with a piece of sterile gauze, which may, in turn, be covered with a piece of tissue and fastened to the site with adhesive tape.

Section 13. Enforcement - Revocation - Penalties.

The Albany County Department of Health is hereby authorized to promulgate such rules and regulations necessary to ensure compliance with this local law. The Health Officer is hereby vested with the authority to enforce the provisions of this local law. If the Health Officer determines after a hearing conducted pursuant to the provisions of the Albany County Sanitary Code that a violation of this local law has occurred, the Health Officer may suspend or revoke any tattoo and/or body piercing artist certification or shop certificate of sanitation issued under this local law and/or a civil penalty may be imposed in an amount not to exceed that set forth in Section 309(1)(f) of the Public Health Law.

Section 14. Severability.

If any provision of this local law is held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provisions.

Section 15. Effective Date.

This local law shall take effect immediately.