



New Zealand  
Institute of  
**Environmental  
Health**



THE NEW ZEALAND ASSOCIATION OF

registered beauty professionals

INC.



## **Health risks associated with the Appearance Industries in New Zealand, and options for achieving adequate regulation.**

**Lead Author:**

**Tanya Morrison**

National President

New Zealand Institute of Environmental Health

**Co-Author:**

**Kim Ryan**

Executive Member: Government Regulations Portfolio

New Zealand Association of Registered Beauty Professionals

**October 2024**



## **Disclaimer**

This report has been compiled independently by the authors through personal research and experience. The opinions expressed within this report are those of the authors only and are not to be associated with any other organisation. While every effort has been made to ensure that the information herein is accurate, the authors take no responsibility for any errors, omissions in, or the correctness of, the information contained in this report. All work is the intellectual property of Tanya Morrison, National President of The New Zealand Institute of Environmental Health and Kim Ryan, Executive member of the New Zealand Association of Registered Beauty Professionals and is not to be reproduced in any part without the express permission of the authors.

## **About the authors**

### Tanya Morrison

Tanya holds a Bachelor of Applied Science (Majoring in Consumer Food Science, minoring in Marketing) from the University of Otago and a Post Graduate Diploma in Environmental Health from Massey University. Having worked as an Environmental Health Officer (EHO) for nearly 14 years, Tanya has a particular interest in the Appearance Industries and the lack of national framework that surrounds them. To extend her knowledge, Tanya obtained a New Zealand Certificate in Sterilising Technology (New Zealand Open Polytechnic) in 2016 and has attended Masterclasses on the appearance industries practices and inspection processes internationally in Australia (2023), and America (mid-2024). She is also the author of a report titled 'The current regulatory state of the appearance industries within New Zealand' which was publicly released in May 2024.

Through her research into these industries, she has submitted on several councils' review, or proposed introduction of, bylaws covering these industries and trained many fellow EHOs in the inspection of such premises nationwide. Tanya has guest lectured at The Otago Polytechnic School of Beauty Therapy for several years, as well as guest lecturing for various Environmental Health papers at Massey University, where she is an Honorary Teaching Fellow. Tanya has been the National President of the New Zealand Institute of Environmental Health (NZIEH) since March 2020.

### Kim Ryan

Kim's career has always been directed toward health and wellness. After a career in Nursing in the Mental Health sector for 15 Years, Kim moved towards a career in beauty therapy, which furthered her existing skill set, knowledge and passion for health and wellness. During her career in beauty therapy, Kim has worked in retail and clinical settings, sales, and training. Kim now has her own skincare distribution company importing medical-grade skincare, though her primary role remains in sales and training.

For the past 13 years, she has been an integral part of the New Zealand Association of Beauty Professionals Inc., serving in various leadership roles, including leading the association as President for three terms, serving as Vice President for three terms, and currently, being the Government Regulation Manager, overseeing compliance with regulatory standards. Since 2018 Kim has been a trusted advisor to Hito, allowing her to contribute to the development and growth of education within the beauty therapy industry. With a broad range of skills, Kim has great insight into the beauty therapy industry and where changes need to be made to make it safe for consumers and empower therapists to reach consistent standards.

## **Acknowledgements**

Dr Nick D Kim, Senior Lecturer, School of Health Sciences, Subject Leader – Environmental Health,  
Massey University (Wellington)

Larissa Whitman, New Zealand Association of Registered Beauty Professionals

Cover image credit: Image by fxquadro on Freepik

[https://www.freepik.com/free-photo/beautician-working-with-client-beauty-salon-applying-color-nail-polish-manicure-procedure-beauty-salon\\_28992481.htm#fromView=search&page=3&position=3&uuid=9ea227ba-c826-44ef-9cf4-97edf51ef7f3](https://www.freepik.com/free-photo/beautician-working-with-client-beauty-salon-applying-color-nail-polish-manicure-procedure-beauty-salon_28992481.htm#fromView=search&page=3&position=3&uuid=9ea227ba-c826-44ef-9cf4-97edf51ef7f3)"

## Abstract

This report has been prepared primarily for the Honourable Dr Shane Reti, in his capacity as Minister of Health for New Zealand. This report follows a meeting held with Dr Reti, discussing the need for regulation amongst the Appearance Industries, which in the context of this report is a term that will primarily be used to include Beauty Therapists (including skin therapists and nail technicians), Tattooists, and Skin Piercers.

Currently, no national framework nor legislation exists governing these industries. Anecdotal evidence, along with data from the Accident Compensation Corporation (ACC), indicates a rising number of health claims and incidence of infection from these industries, all of which continue to grow in popularity and prevalence. Concerns of inadequate facilities, hygiene practices, sterilisation practices and staff competency are just some of the reported factors contributing to the increasing costs associated with these industries on the wider health system.

A risk assessment of the specific procedures and environments has been conducted to highlight where the main health risks are arising, or could be arising from, to give an overall indication of level of priority regulators should place on introducing national legislation to govern these industries. Throughout this report, additional health data and case study examples from overseas have been referred to which consistently support the case that these are industries that need some form of regulation, in order to protect, promote and enhance human health.

This report explores the feasibility of incorporating these industries under the Health Practitioner Competence Assurance Act 2003 (HPCAA), compared to The Health Act 1956. International examples of legislation and approaches, namely from an Australian and United Kingdom (UK) perspective have been considered and commented on, to provide a comparison around how other countries have, or are, approaching wider public health frameworks in this area.

Policy options are explored with recommendations for the path moving forward being made by the authors. The preferred recommendation is for nationally consistent outcomes-focused legislation to be created by way of regulations being drawn up under the Health Act 1956. This could be achieved through Government initiating a Ministry of Health work programme to explore development of nationally consistent regulations. An existing model bylaw, such as Dunedin City Council's, could be used to form the basis of what national regulations could look like.

Maintaining the status quo of piecemeal bylaws being created and existing throughout the country, would not minimise the current health risks and costs to our health system these industries are creating and contributing to. The authors also do not consider that any of the appearance industries fall under The Health Practitioner Competence Assurance Act 2003. This Act is clearly more medically focused, much like similar pieces of legislation in the UK and Australia.

The authors believe this area of work should be a high priority for the government to action with this portfolio of work needing to be included within their current work programmes to begin developing national regulations for these industries as soon as possible. To do so would be firmly in the public's best interests, as well as in the interests of reducing pressure and unnecessary ongoing rising costs seen within New Zealand's health system in relation to these industries.



# Contents

<b>Abstract</b> .....	<b>v</b>
<b>Definitions</b> .....	<b>ix</b>
<b>1.0 Introduction</b> .....	<b>1</b>
1.1 Who are the appearance industries? .....	1
1.2 What are the health risks from these industries? .....	2
1.3 How have these industries been regulated elsewhere? .....	3
1.4 Why would introducing national legislation be a solution? .....	4
<b>2.0 Health risk assessment</b> .....	<b>6</b>
2.1 Health risk assessment of common appearance industry procedures .....	6
2.2 Health risk assessment of environmental factors within appearance industry practices .....	9
<b>3.0 Health Practitioners Competence Assurance Act 2003</b> .....	<b>11</b>
3.1 Overview of the Act and key definitions .....	11
3.2 Who currently falls under the HPCAA? .....	11
3.3 Could the Appearance Industries fit under the current HPCAA? .....	12
3.4 Taking the HPCAA route, what changes would be needed? .....	13
<b>4.0 The Health Act 1956</b> .....	<b>14</b>
<b>5.0 United Kingdom regulatory framework for the Appearance Industries</b> .....	<b>16</b>
5.1 Non-Regulated Beauty Services within the United Kingdom .....	16
5.2 The Local Government (Miscellaneous Provisions) Act 1982 .....	16
5.2A London requirements .....	17
5.3 The Tattooing of Minors Act 1969.....	18
5.4 The Health and Care Act 2022.....	18
5.5 Health and Safety at work etc Act 1974.....	18
5.6 CIEH Tattooing and Body Piercing guidance toolkit .....	19
5.6A Document overview and conception.....	19
5.6B What does the guidance document cover? .....	19
5.6C Discussion of the CIEH Guidance toolkit .....	21
<b>6.0 Australian regulatory framework for the Appearance Industries</b> .....	<b>22</b>
6.1 New South Wales.....	22
6.1A Skin Penetration procedures .....	22
6.1B Tattooing.....	24
6.1 C Discussion of New South Wales Framework.....	24
6.2 Queensland .....	25
6.2A Public Health (Infection Control for Personal Appearance Services) Regulations 2016.....	27
6.2B Infection Control Guidelines for personal appearance industries 2024: .....	27
6.2C Queensland Tattoo Industry Act 2013 .....	28
6.2D Discussion of Queensland’s framework .....	28

6.3 South Australia.....	29
6.3A Guidelines on the safe and hygienic practice of skin penetration 2004.....	29
6.3B Tattooing Industry Control Act 2015 .....	30
6.3C Discussion of South Australia’s Framework.....	31
6.4 Tasmania.....	32
6.4A Discussion of Tasmania’s framework .....	34
6.5 Victoria .....	34
6.5A Public Health and Wellbeing Regulations 2019 .....	35
6.5B Summary Offences Act 1966 .....	36
6.5C Infection prevention and control guidelines for hair, beauty, tattooing and skin penetration industries (June 2020).....	36
6.5D Discussion of Victoria’s Framework.....	37
6.6 Western Australia .....	38
6.6A Discussion of Western Australia’s framework.....	40
6.7 Summary of Australian legislation and comparison against New Zealand bylaws .....	40
<b>7.0 New Zealand Model Bylaw Example: Dunedin City Council .....</b>	<b>42</b>
7.1 Style of bylaw: outcome-focused .....	42
7.2 Bylaw inclusions and possible areas for future improvement .....	42
7.3 Dunedin’s bylaw compared to Australian and United Kingdom legislation .....	43
<b>8.0 Summary, policy options, and recommendations .....</b>	<b>45</b>
8.1 Summary .....	45
8.2 Policy options .....	46
8.3 Recommended path forward .....	46
<b>Appendix A: Provisions of the Health Practitioners Competence Assurance Act 2003 .....</b>	<b>47</b>
Establishing Authorities.....	47
Conditions for designating health services as health professions .....	48
<b>Appendix B: Dunedin City Council Bylaw.....</b>	<b>50</b>



## Definitions

<b>ACC</b>	Accident Compensation Corporation
<b>Appearance Industries</b>	<p>Overarching term used to include:</p> <p><b>Beauty Therapists</b> who offer services including (but not limited to): waxing and hair removal techniques, facials, microderm abrasion, chemical peels, epilation, laser treatments including IPL (Intense light pulse treatment), eyebrow tinting and shaping and microblading techniques such as dermaplaning and micro-needling.</p> <p>This group also covers semi-permanent makeup (also known as cosmetic tattooing) and nail technicians (manicures, pedicures, and acrylic and gel nail applications).</p> <p><b>Skin piercers</b> who offer services such as: piercings of ears, noses, tongues, belly buttons and other areas of the body, including dermal piercings</p> <p><b>Tattooists</b> who offer services such as: permanent tattoos, tattoo laser removal</p>
<b>Bylaw</b>	A local law made by a local council or territorial authority
<b>HPCAA</b>	Health Practitioners Competence Assurance Act 2003
<b>MoH</b>	Ministry of Health
<b>TA</b>	Territorial authority, abbreviated TA, (local council: includes district councils, city councils, and unitary authorities)



## 1.0 Introduction

Within New Zealand, there is increasing demand for and popularity of appearance-focussed services, in particular: beauty therapies, skin piercing procedures and tattoo services. Many companies and individuals provide these services. In this report these services will be referred to as the appearance industries.

Though popular, these industries present health risks, which if not properly managed, can result in serious harm to both customers and (in some cases) close contacts. Most of these practices are also evolving and are still likely to be increasing in personal and community popularity.

Despite the potential for serious harm, most of the time, most appearance services operate under conditions of either no regulatory oversight or limited regulatory oversight.

The current situation within New Zealand in a regulatory sense is well-documented, with the lead author having earlier in 2024 released a comprehensive report outlining the current regulatory playing field for these industries in New Zealand. A piecemeal approach of bylaws, fourteen in total, exist across New Zealand. These are geographically based (because they depend on which territorial authorities have enacted bylaws) and vary in their scope and coverage. Just on fifty percent of the New Zealand population live in an area where a bylaw exists, leaving the other fifty percent with no equivalent protection.

Alongside the New Zealand Association of Registered Beauty Professionals (NZARBP), New Zealand Institute of Environmental Health (NZIEH) representatives met with the current Health Minister, the Honourable Dr Shane Reti in August 2024 to discuss possible national legislation for these industries. This robust discussion acknowledged an interest from the New Zealand government to learn more about these industries, in particular comparing Australia, and the United Kingdom's approach to these industries with regards to legislation.

In addition, the authors were tasked with examining the possibility of appearance industries falling under The Health Practitioners Competence Assurance Act 2003, which is currently undergoing review by Ministry of Health staff. An example bylaw, from those that exist currently was asked to be nominated as a potential model bylaw, with commentary provided as to why this bylaw could be the basis for further investigative work in this area towards national legislation.

Finally, the Health Minister requested information regarding the risks these industries present, and essentially, why should exploring national legislation be a priority for the government, and if it is, how high a priority should this area of work be.

These aspects requested by Dr Reti form the scope of this report. Before exploring each of these areas in turn however, a brief background to these industries is provided in this section.

### 1.1 Who are the appearance industries?

Within New Zealand, Beauty Therapists, Skin Piercers, and Tattooists are known as (and referred to within this report) as the Appearance Industries. Across the world however, the overarching term for these industries changes depending on location. For example, in America, these industries are known as the Body Art industries, within Australia they are referred to as Beauty, Body Art and Skin Penetration activities, and within the United Kingdom they can be labelled as the Aesthetics Industry

and other terms for 'non-surgical cosmetic procedures' which usually involve the skin but range beyond tattooing or piercing to include procedures such as botulinum toxin (commonly known as Botox) anti-wrinkle injections, and use of cosmetic fillers (commonly known as dermal fillers), chemical peels and energy-based treatments.

## 1.2 What are the health risks from these industries?

Physical health risks of appearance procedures fall into four main categories: infection, acute or chronic toxicity, allergic response, or biophysical damage such as burning or scarring. With each category, potential impacts can range from mild to severe, with fatality in some cases. Microbial infections can be bacterial, viral or fungal; and whereas most are restricted to the client, there are cases of transmission causing secondary infections among family and close-contacts. Toxicity can be acute (e.g. through a dermally-absorbed face-peel) or chronic (e.g. through components of some inks used for tattooing or permanent makeup). It is likely that only a proportion of harmful outcomes are reported.

Medical knowledge about the risks of appearance industry procedures is well-established. In a review of medical literature from between 1966 and 1998, Koenig et al (1999) found reports of bacterial infections (local soft tissue infections, perichondritis from high ear piercings, sepsis, and toxic shock syndrome), contact dermatitis, hypertonic scars and keloids, and tissue trauma.<sup>1</sup>

Bone et al (2008) reported results of a household study in England involving 10,503 participants aged 16 years or older. Of these participants, 1049 reported being pierced somewhere on their bodies (besides an earlobe), which equated to approximately 10% of the population study. Of those who reported being pierced, the majority were women. Specifically, 754 of those persons reporting being pierced were aged between 16 and 24 years of age, with 233 of these people (or 31%) reporting they had complications arising following the piercings they had received. Of these 233 cases of complications reported, 115 participants reported they had sought professional help, with 7 people reporting they required hospital admission.<sup>2</sup>

This study provides insight into the popularity, but also prevalence of complications or adverse (health) effects arising from body piercings, and the relatively low incidence of reporting. Though the nature of complications reported by study participants was not captured, the assistance required, being at a rate of approximately 15% of the participants who were pierced, provides a value, and estimate on health services, such as pharmacists or general practitioners (GPs) being sought, if assistance was not sourced from piercers themselves. One can estimate from this data alone, that potentially similar incidence rates of complications may be common worldwide, along with the demand on health services when complications arise to a significant degree.

In a more recent article, Kiseleva *et al* (2023) provide a more detailed list of the physical health risks associated with tattooing, body piercing, acupuncture, and electrolysis.<sup>3</sup> These include fungal infections, bacterial infections, viral infections, blood-borne infections, allergic reactions, malignant growths, benign growths, sarcoidosis-related reactions, and a range of other skin and eye related adverse reactions and dental issues. These authors also discuss the practices of semi-permanent

---

<sup>1</sup> Koenig, L. M., & Carnes, M. (1999). Body piercing: Medical concerns with cutting-edge fashion. *Journal of General Internal Medicine*, 14(6), 379-385.

<sup>2</sup> Bone, A., Ncube, F., Nichols, T., & Noah, N. D. (2008). Body piercing in England: a survey of piercing at sites other than earlobe. *British Medical Journal*, 336(7658), 1426-1428.

<sup>3</sup> Kiseleva, M., Csontos, J., Edwards, D., Gillen, E., Mann, M., Searchfield, L., ... & Edwards, A. G. (2023). A rapid review of physical health risks associated with special procedures (tattooing, body piercing, acupuncture, electrolysis). *medRxiv*, 2023-12.

makeup, making reference to such procedures often including microblading and micropigmentation, which penetrates the skin and therefore should be treated the same as tattooing/skin piercing procedures.

In Australia, the Government of Western Australia (Department of Energy, Mines, Industry Regulation and Safety) report that health issues raised by over 100 complainants across an 18-month period included chemical burns, infections, allergic reactions, bruising or swelling, scarring, dark spots, as well as unhygienic conditions.<sup>4</sup> Commissioner of Consumer Protection Gary Newcombe notes: “The impact on affected consumers can be significant with prolonged pain, long-term scarring and psychological trauma.”

In addition to physical risks, harmful psychosocial and emotional impacts can occur in some cases. Armstrong et al (2007) outline risks in relation to body piercing industries as including bleeding, tissue trauma, and bacterial infections, and: psychosocial risks of unhappiness, low self-esteem and disappointment, and embarrassment.<sup>5</sup>

One factor which contributes to the rate of infection may be lack of aftercare or advice about wound treatment. Some procedures, especially those where skin is penetrated, can take days, weeks, or even months to properly heal. While infection control during the procedure itself is vitally important, one cannot ignore the client’s responsibility in ensuring the safe healing of each wound site.

However, the likelihood of adverse complications could arguably be reduced by operators being required to provide clients with robust advice and instructions about ongoing wound treatment. As part of any legislative package this simple step may make a significant contribution towards the overall goal of protecting human health.

A more detailed appraisal of health risks associated with common Appearance Industry procedures and their associated environmental factors is provided in Section 2 of this report.

### 1.3 How have these industries been regulated elsewhere?

Many appearance procedures—but especially those involving skin penetration or modification—carry significant risks of harm. Controls to prevent or minimise the incidence of adverse outcomes vary with the procedure, but as a baseline, ensuring appropriate training, sanitation and hygiene are key.

Often legislation is introduced in a reactive response as opposed to in a proactive capacity. Examples of this include within New York City, where after a large outbreak of hepatitis in the 1950s, tattooing was banned. Within the United Kingdom, following another hepatitis outbreak in 1978, the first regulations to try control the tattooing industry were introduced. A similar event occurred in Amsterdam in 1982, after 8 American soldiers contracted Hepatitis B.<sup>5</sup>

Similarly, within New Zealand, in 1998 the Ministry of Health introduced Guidelines for the Safe Piercing of Skin. Although these are guidelines (rather than legislation) their development was in large part triggered by learnings from the HIV/AIDS epidemic from the 1980s onwards.

---

<sup>4</sup> Western Australia Commerce Consumer Protection department: Media Release, 3 August 2021: The Ugly side of Beauty and Cosmetic treatments. Available from: <https://www.commerce.wa.gov.au/announcements/ugly-side-beauty-and-cosmetic-treatments> Accessed 30 September 2024.

<sup>5</sup> Armstrong, M. L., Koch, J. R., Saunders, J. C., Roberts, A. E., & Owen, D. C. (2007). The hole picture: risks, decision making, purpose, regulations, and the future of body piercing. *Clinics in dermatology*, 25(4), 398-406. Accessed 18 September 2024.

By the mid-2000s, Belgium, Canada, Iceland, Italy, Mexico, Netherlands, Peru, Spain, Scotland, the United Kingdom, and the US were all developing regulations if not model codes to try address growing health concerns arising from body piercing industries.<sup>5</sup>

In Australia, when comparing the six main states in terms of their regulatory framework and approach, there are many commonalities, but also interesting observations to be made. In three states (as detailed later within this report), tattooing is targeted not just from a health perspective, but a criminal perspective too, aiming to reduce the association of criminal organisations within the industry. The author understands this approach stems back to times when bikers and gangs essentially controlled these industries, or if not heavily influenced them, and all sorts of behaviours and activities (not often legal) occurred from tattoo parlours.

In more recent times, the profession globally seems keen (from the author's observations) to leave the stereotypes of tattoos only being for prisoners, sailors, and gangs behind. The rise in popularity and quality of workmanship has seen a resurgence focusing on body art and technique, bringing with it a new standard of professionalism to the wider industry. Coupled with tattooing, body piercing and beauty therapy treatments becoming more and more mainstream thanks to social media, the internet, and other media, as well as evolving technology, the appearance industries are nowadays the most mainstream that they have ever been, worldwide.

### **Recent developments in the United Kingdom**

Recently (September 2023),<sup>6</sup> the UK Government's Department of Health & Social Care closed a consultation on the licensing of non-surgical cosmetic procedures in England. Although the status of these proposals is currently unclear following the change of Government, key elements included introduction of a licencing scheme, which would ensure that those who offer specified procedures:

- are suitably knowledgeable, trained and qualified;
- hold appropriate indemnity cover; and
- operate from premises which meet the necessary standards of hygiene, infection control and cleanliness.

### **1.4 Why would introducing national legislation be a solution?**

In this area, the overall aim of legislation and regulations is health protection: the prevention or minimisation of avoidable harms to human health. In addition to personal, family, and social benefits, this approach lowers costs on an already under pressure health system, by attempting to minimise potential infection spread to prevent it from occurring in the first place through safe practices, good personal hygiene, trained and competent staff and suitably sterilised equipment being used.

The lead author's first published report, *The current regulatory sate of the appearance industries within New Zealand*,<sup>7</sup> discussed an official information request to the Accident Compensation Corporation (ACC) New Zealand requesting data on adverse reactions from the appearance industries

---

<sup>6</sup> UK Government, Department of Health & Social Care, 2023. The licensing of non-surgical cosmetic procedures in England. Available from: <https://www.gov.uk/government/consultations/licensing-of-non-surgical-cosmetic-procedures/the-licensing-of-non-surgical-cosmetic-procedures-in-england> Accessed 1 October 2024.

<sup>7</sup> Morrison T, 2024. *The current regulatory sate of the appearance industries within New Zealand*. New Zealand Institute of Environmental Health.

between 1 July 2018 and 30 June 2023. The highest number of claims were seen from tattooing, skin piercing and mani/pedi/pedicure (manicure and pedicure) treatments.

Though this data was broad, it is strongly thought that the true incidence rates of health effects arising from these industries is severely under-reported. The data does however suggest, there are adverse costs to our healthcare system that can be linked to these industries in some way. The data, which covers the COVID-19 pandemic which must be considered when looking at the data itself, still indicated an obvious trend of rising costs of claims from these industries year on year.

If this trend is to continue, the costs and effect on our current healthcare system will only continue to increase overtime. The introduction of national legislation is the obvious tool and mechanism to control or counter this rising trend, clean up these industries in terms of raising standards, and protect human health, whilst minimising consumer risk and maximising wellbeing. Introducing national legislation creates a minimum standard, expectations, consistency and most importantly accountability.

Any legislation is only as good as its enforcement, however the aim and rationale behind introducing legislation in this context is to offer public protection through consistent systems of monitoring and control.<sup>8</sup> Secondary legislation such as regulations function to protect businesses and their clients, as well as promoting confidence within the industries themselves.

Self-regulation is not consistent, nor are guidelines or codes of practice introduced by industry groups enforceable (outside perhaps of an industry membership). There is an onus on government to improve standards for consumers and keep them safe. That is the aim of any legislative framework. The question now that needs addressing, is how national legislation could be introduced, where would this sit and what might it look like?

---

<sup>8</sup> Chalmers, C, Senior Lecturer University of West Scotland. 6 March 2009. Infection Prevention Society, journal of Infection Prevention: September 2009, volume 10. No 5. Debating the appropriate and effectiveness of regulation as a mechanism to manage and control the risk of health from tattooing and body piercing. Available from: <https://journals.sagepub.com/toc/bjib/10/5> Accessed 18 September 2024.

## 2.0 Health risk assessment

### 2.1 Health risk assessment of common appearance industry procedures

The following table outlines common procedures and services offered by the appearance industries, with an assessment of risk applied. The highest risk rating also carries the highest impact health wise, with long-term health issues including effects on the person financially, socially, mentally, and otherwise all considered. Whilst arguably no procedure is ever entirely risk free, for the purposes of this report and simplicity, a no risk/no impact rating has been included to give an overview of the 'full scale' possible in relation to these procedures.

**Table 1. Key to risk and impact rating**

<b>RISK CODE</b>	<b>POTENTIAL RISKS</b>						
High Risk		Doctor intervention	Hospitalisation	Scarring	Death		
Medium Risk		Chemist Intervention	Doctor Invention				
Low Risk		Consultative approach					
No Risk							
	<b>POTENTIAL IMPACTS</b>						
High impact		Long-term health issue	Permanent scarring	Loss of income	Mental health	Families	Communities
Medium impact		Short term health	Loss of income	Mental health	Families	Communities	
Low impact		Mental health	Families				
No impact		None					



**Table 2. Beauty Therapy Procedures risk and impact rating**

Procedure	Possible Risks/impact rating							
	Bloodborne pathogens	Fungal	Communicable Disease	Non-communicable Disease/infection	Burns	Scarring	Allergy	No training or improper technique
Facials								
Waxing								
Lash tinting								
Manicure								
Pedicure								
Peels								
Micro-needling								
Derma blading								
Intense Pulsed Light (IPL)								
Laser								
Massage								
Radio frequency								
Microcurrent								
Lymphatic drainage								
LED Treatment								
Fractional Radio Frequency								
Fractional plasma								
Product recommendations								
Cosmetic Tattooing								
Hylon Pens								Nerve damage/vascular occlusion
Lash perming								
Lash lifts								
Lash extensions								
Extractions with a facial								

Possible Risks/impact rating (Continued...)								
Procedure	Bloodborne pathogens	Fungal	Communicable Disease	Non-communicable Disease/infection	Burns	Scarring	Allergy	No training or improper technique
Electrology	Red	Red	Red	Red	Red	Red	Yellow	Orange
Microdermabrasion/hydra	Light Blue	Yellow	Yellow	Yellow	Light Blue	Yellow	Light Blue	Orange
Make-up	Light Blue	Orange	Orange	Orange	Light Blue	Light Blue	Yellow	Yellow
Hifu	Light Blue	Light Blue	Yellow	Yellow	Light Blue	Light Blue	Light Blue	Red (Nerve damage/vascular occlusion)
Spray tanning	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Yellow	Light Blue
Facial electrics	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Yellow
Hot stone massage	Light Blue	Yellow	Yellow	Yellow	Orange	Light Blue	Light Blue	Yellow
Body exfoliation/wraps	Light Blue	Yellow	Yellow	Yellow	Light Blue	Light Blue	Yellow	Yellow
Skin tags/red vein	Red	Light Blue	Light Blue	Light Blue	Red	Red	Light Blue	Red
Body piercing	Red	Orange	Red	Red	Light Blue	Red	Yellow	Red
Tattooing	Red	Orange	Red	Red	Light Blue	Red	Yellow	Red

The above table shows that the more invasive procedures, whereby skin is pierced or penetrated, create the highest level of risk and possible health impact. Except for LED treatment, no procedure appears to be risk free (or as close to risk free as possible). The absence of training or having improper technique is the biggest factor overall that contributes towards health risks and possible impacts. Even for the likes of makeup application, inadequate training could see makeup or products applied near sensitive areas of the face, including mucous membranes which can present some degree of infection risk occurring.

This table also shows the degree of procedures offered by appearance industries, noting this is not in itself an exhaustive list but has been provided to give an indication and representative view that the appearance industries overall do carry with them possible health risks, which can impact human health.

## 2.2 Health risk assessment of environmental factors within appearance industry practices

The following risk rating assessment considers the physical environment and equipment common within all appearance industries premises. This risk rating considers that if these environmental areas are not maintained or cleaned properly, there is not only an increased risk of possible infection occurring, but other risks may be present such as possible pests entering the environment.

**Table 3. Key to Environmental risk rating**

RISK CODE	POTENTIAL RISK OF INFECTION OCCURRING
High Risk	
Medium Risk	
Low Risk	
No Risk	

**Table 4. Environmental factors risk rating**

Risk Rating (Potential risk of infection occurring)				
Environmental area	Poor maintenance	Poor cleaning	Potential for pests	Poor storage
Floor				
Walls				
Ceiling				
Lighting		Difficult to see to clean	Difficult to inspect for pests	
Ventilation	Health & Safety concerns	Health & Safety concerns		
Treatment beds/chairs/tables				
Wash hand basins				
Equipment sinks				
Toilet facilities				
Equipment processing areas (sterilisation room/area)				
Equipment servicing/maintenance				
Rubbish storage/receptacles available				

The above table shows the importance of the physical environment where appearance industries procedures are undertaken. Bloodborne pathogens and other pathogens can survive on surfaces for up to 30 days in some situations. Therefore, the importance of having facilities in good order and repair, as well as ensuring regular and proper cleaning is occurring is one of the easiest ways to lower the risk of environmental factors contributing towards the spread of disease.

People movement and conduct within an environment is the additional factor to consider. The best facilities in the world are only as good as the people using them, maintaining, and cleaning them. Personal conduct has not directly been considered in this risk analysis; however, it is known that poor conduct towards hand washing, eating in treatment areas, seeing personal items stored amongst 'business' items etc can all increase possible risks towards health and the spread of infection.

## 3.0 Health Practitioners Competence Assurance Act 2003

### 3.1 Overview of the Act and key definitions

The Health Practitioners Competence Assurance Act 2003 (HPCAA) states its principal purpose (section 3) is to 'Protect the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise their professions'.

This is achieved through the Act providing:

- A consistent accountability regime;
- Scope of practices being defined (regarding having competence to practice);
- Systems to ensure no practices outside a practitioner's competency scope occur;
- The power to restrict specified activities to classes of health practitioner;
- Certain protections for practitioners who undertake quality assurance activities; and
- Allowance for additional health practitioners to become subject to this Act.

To further explore the feasibility of the Appearance Industries falling under the HPCAA, two key definitions need to be explored and considered: What is a Health Practitioner, and what is a Health Service?

As currently written, that HPCAA is intended to cover only recognised categories of health professionals, delivering health services. This is clear under the Act's (section 5) definitions of:

- **Authority:** as a body corporate [...] responsible for the registration and oversight of practitioners **of a particular health profession;**
- **Health profession** or **profession:** the practice of a profession in respect of which an authority is appointed by or under this Act;
- **Health practitioner** or **practitioner:** a person who is, or is deemed to be, registered with an authority as a practitioner of a particular **health profession;** and
- **Health service:** a service provided for the purpose of assessing, improving, protecting, or managing the physical or mental health of individuals or groups of individuals.

Thus, under the Act, a **practitioner** always means a **health** practitioner, in their capacity of delivering a **health service**.

### 3.2 Who currently falls under the HPCAA?

Currently, authorities as defined under the Act cover the following health services:

- Chiropractic services
- Dietetics
- Medical radiation technology
- Medicine (New Zealand Medical Council)
- Medical laboratory science
- Nursing
- Occupational therapy
- Optometry
- Optical dispensing
- Physiotherapy

- Podiatry, and
- Psychology.

All the above are **health services**, under the Act. They are provided for the purpose of ‘assessing, improving, protecting, or managing the physical or mental health of individuals or groups of individuals.’ These medically-based or allied professions also require or assume the presence of one or more health professionals, and a suitable baseline of training and certification.

### 3.3 Could the Appearance Industries fit under the current HPCAA?

The short answer to this question is no.

In contrast to the professions that are accommodated under the Act, beauty therapists (including in general skin therapists and nail technicians), tattooists and skin piercers do not undertake **health services**, as defined in the Act (see Section 3.1 of this report). Appearance Industry procedures are **not** undertaken for the purpose of ‘assessing, improving, protecting, or managing the physical or mental health of individuals, or groups of individuals.’ They are undertaken for **cosmetic** purposes.

There will be some marginal exceptions or edge-cases to this rule, for example:

- Skin therapies may border upon dermatological practices. However, a registered dermatologist would likely undertake any ‘medical’ procedures as opposed to a beauty or skin therapist.
- Some forms of tattooing, such as tattooing for cosmetic reasons on cancer patients, could be deemed quasi-medical, or at least be undertaken under medical supervision.

However, for the most part, the ‘Appearance Industries’ referred to within this report are not focusing on the exceptions that may border medical procedures or be undertaken under direct medical supervision. Rather, the industries in question are those which do **not** involve provision of health services, for which consumers can visit *via* a shop frontage (so to speak) in their everyday lives to receive a cosmetic procedure or service such as a beauty treatment, tattoo, or piercing.

The central limitation here is the Act’s definition of a **health service**. Almost all appearance industry procedures do not meet this definition, most of the time. Furthermore, although section 115 of the Act provides for the appointment of additional authorities and professions, the types of professions that may be added are clearly restricted to those that deliver **health services**.<sup>9</sup>

For these reasons, in the opinion of the authors, the HPCAA:

1. Does not include provisions to accommodate the regulation of the Appearance Industry professions, in its current form; and
2. Would require a foundational legislative amendment to accommodate the regulation of such professions. An Act designed for the regulation of health services would need to be fundamentally redesigned to also enable the inclusion of almost all Appearance Industry practices, which are essentially non-medical cosmetic procedures.

---

<sup>9</sup> Section 115(1): The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,— (a) designate **health services** [*emphasis added*] of a particular kind as a health profession; and (b) either— (i) establish a body corporate, to be known by a name stated in the order, as the authority appointed in respect of the profession designated under paragraph (a); or (ii) provide that the profession designated under paragraph (a) is to be added to the profession or professions in respect of which an existing authority is appointed.

### 3.4 Taking the HPCAA route, what changes would be needed?

To accommodate the categories of service provision which are delivered by the Appearance Industries within the HPCAA, the following modifications, changes and policy work would be required:

1. A change to the **name** of the Act to include this category of practitioners who do not deliver health services;
2. Insertion of new definitions into the Act section 5, including **cosmetic services** (or similar), and possibly other terms;
3. Provision for the incorporation of the new category or categories throughout the Act;
4. Recognition of one or more new body corporates as authorities suitably qualified to regulate the new category or categories, in a way which ensures appropriate levels of quality assurance, specifically with respect to health protection;
5. Development and recognition of training programmes and certification schemes covering each category of cosmetic procedure. These would need to focus primarily on health protection, rather than the technical aspects of each service or craft;
6. Consideration of the system of policing, enforcement and penalties which would apply for practitioners who are non-compliant with the new provisions and decline to engage with their designated authority.

This would be possible, but difficult. The expected order of difficulty for achieving these changes is the reverse of the list: item 6 (greatest difficulty) > 5 > 4 > 3 > 2 > 1 (least difficulty, presumably following from Items 2 and 3).

Under Item 6 and as an example: it is hard to envisage that all tattooists, including traditional tattooists, would accede to undertaking and paying for additional specified training, and being regulated by a designated body corporate, rather than central or local government through a health regulation or bylaw.

Two further aspects to consider would be desirability of:

- Consultation with, and buy-in from, *actual* health practitioners who are currently regulated under the Act; and
- Equitable alignment of processes for the regulation of **hairdressers**, who are currently covered by the Health (Hairdressers) Regulations 1980, drawn up under Health Act 1956. If the above changes were made to the HPCAA, then that Act might also become the more natural home for regulation of hairdressing industry, if only for consistency.

Should the Minister prefer this path, the authors would suggest that further policy advice be sought. Further analysis of the HPCAA is provided within Appendix A of this report.

## 4.0 The Health Act 1956

The Health Act 1956 contains specific provisions for regulations to be drawn up enabling controls on activities that may exert negative impacts on human health. These provisions are not incidental, accidental, or an afterthought, but form a central part of the Act: specifically, Part 6, and sections 117 to 122.

This makes the Health Act the default *intended* home for regulations for which the primary purpose is human health protection, in the absence of another more specific Act. As such it is the default parent Act for regulation of Appearance Industry services. This is all the more-so because a clear distinction can be made between the purpose of Appearance Industry services and those of ‘health services’ as defined in the HCPAA – see Section 3 of this report.

Confirmation of this interpretation is found with the precedent of the Hairdressers Regulations 1980, which were drawn up pursuant to sections 117 and 120 of the Health Act 1956.

Given these two factors—existing legislative provisions and regulatory precedent, there would need to be a compelling case made if national regulation of (one or more) further Appearance Industry services were **not** to make use of Part 6 of the Health Act 1956.

Hairdressing is within the wider realm of appearance industries already, and as is discussed later within the report, features in some overseas legislation such as certain states within Australia.

Other appearance industries, namely beauty therapy, tattooing and skin piercing align more to hairdressing and would also suit having their own regulations under The Health Act 1956. Notably provisions for monitoring and enforcement already exist and are being used. The Act provides for Environmental Health Officers (EHOs) to be appointed to administer, monitor, and ensure compliance with the Act (and subsequent regulations), and EHOs have now been inspecting hairdressing establishments throughout the country for the past 44 years. They have also been conducting inspections under the 14 Appearance Industry bylaws for Appearance Industries which are currently in effect.

Environmental Health Officers are trained in risk-based assessments across multiple discipline areas, and already understand the warranting and other powers afforded to them under the Health Act 1956. The same Act requires that every territorial authority employ one or more EHOs, with the number linked with population. Therefore, implementing new regulations for the Appearance Industries would be relatively smooth from an administrative perspective in terms of utilising an existing workforce of trained and authorised officers drawing on their current range of powers.

As for the Hairdressers Regulations, territorial authorities would be likely to charge a nominal registration fee and conduct annual inspections of such appearance industry premises. The New Zealand Institute of Environmental Health is already working towards training and upskilling officers in the appearance industry realm, to empower them to help regulate these industries. With the assistance of industry groups such as the New Zealand Association of Registered Beauty Professionals, and with the consideration of developing training course materials and guidance documents to assist upskilling authorised officers, the practical implementation of such regulations (with sufficient lead-in time) would be achievable without question.

Discussed also later in this report is the example of a model bylaw already in existence, that of Dunedin City Council’s. This bylaw could easily form the basis of new regulations that fall under the Health Act 1956. A national approach is required to regulate the appearance industries, to avoid the



mosaic of bylaws in existence currently becoming even more inconsistent and address the gap which currently leaves half the New Zealand population with no bylaw or equivalent mechanism to promote health protection.

Based on these considerations there would need to be a good reason not to pursue regulations under the Health Act 1956. To summarise:

- Unlike the HPCAA, the Health Act 1956 is not restricted to regulation of health services by health practitioners but can accommodate any activity that is not a health service but may cause adverse health outcomes, from hairdressing to tattooing and skin piercing to application of permanent makeup.
- The Health Act 1956 also provides the direct link to an existing and available inspection and compliance monitoring workforce, in the form of EHOs, which territorial authorities are required to employ, under the same Act.

For these reasons we feel that the Health Act 1956 is obviously the better fit for these industries, compared to a more medically based framework offered by the HPCAA 2003.

## 5.0 United Kingdom regulatory framework for the Appearance Industries

### 5.1 Non-Regulated Beauty Services within the United Kingdom

The following services are not generally regulated within the United Kingdom:

- Hairstylist/Barber (Voluntary registration only)
- Lash technician (includes lash lifts, tinting, and extensions)
- Nail technician (includes manicures, pedicures, nail art, and artificial nails)
- Makeup artists\*
- Facialist\*
- Waxing technician
- Massage therapist
- Spray tanning technician

*\* (The above industries may be included under possible aesthetics regulations if introduced – refer to The Health and Care Act 2022 section below)*

Beauty therapy practices to a degree, may be required to or can voluntarily register with local councils (if a bylaw is in effect). Massage and special treatments, which include manicures, light treatments, and electrolysis along with laser and light treatments may require registration.

The Care Quality Commission (CQC) however, states that if laser or intense light treatments (IPL) are only for cosmetic purposes, these treatments do not also have to register under the CQC, however Class 3B and Class 4 lasers treatments, along with registered medical practitioners using IPL or lasers to treat diseases or injuries, do have to be registered under the CQC.

Body and skin piercing is largely unregulated within the United Kingdom, with no national standards being in effect, along with no minimum age for piercing (unless genital piercings) being defined. This lack of national framework also extends to no nationally approved training courses being available within the UK, though there are multiple industry courses available. The Chartered Institute of Environmental Health (CIEH) expressed via their released toolkit guidance document released in 2013, that they would like to see nationally approved training courses developed.

Similarly, to New Zealand, hairdressers also may have to be registered throughout England and Wales, which falls under a separate registration to any appearance industry (in New Zealand hairdressers/barbers fall under the Health (Hairdressers) Regulations 1980).

### 5.2 The Local Government (Miscellaneous Provisions) Act 1982

The primary method of enforcing infection control requirements is via registration and licensing of individuals and/or premises. Having prescriptive requirements with offences and penalties for non-compliance, is in keeping with how legislation generally works worldwide. Via registration and licensing however, regulatory officers, such as Environmental Health Officers, have tools they can use to enforce compliance, albeit risk assessment skills still need to be present and used by regulatory staff with regards to these industries when applying any legislation.

Licensing and registration is required under Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) for practices of acupuncture, tattooing, ear piercing or electrolysis. These powers are adoptive, therefore local authorities can choose which of these practice areas they choose to require registration. The Local Government Act 2003 under section 120, further introduced

semi-permanent skin colouring and cosmetic piercing as additional activities that can require registration as well.

Bylaws can be made under the LGMPA, like how bylaws can be made and introduced under The Health Act 1956 or Local Government Act 2002 within New Zealand. Within the UK, such bylaws can be introduced with the purpose of securing:

- a) the cleanliness of premises and fittings in such premises;
- b) the cleanliness of persons so registered and persons assisting persons so registered in their practice; and
- c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials, and equipment used in connection with the registered practice.

The above essentially covers the premises, people and sterilisation practices which are the core foundations of most, if not all, of the fourteen bylaws which currently exist within a New Zealand context as well. As occurs within New Zealand, bylaws can, in addition, request evidence of training or competency.

Like the current New Zealand situation, the CIEH toolkit offers a model bylaw which can be adopted by territorial authorities; however, this is an adoptive approach, meaning not all authorities will adopt a bylaw, which leads to inconsistencies across the country in its (regulatory) approach.

Also like the current approach within New Zealand, there are some exemptions from registration requirements under such bylaws in the UK for medical practices, or practices carried out by or under the supervision of a medical practitioner. This approach is consistent with New Zealand's current approach and further suggests that these industries are not seen as practices that should be covered by more medically aligned legislation.

## 5.2A London requirements

The Greater London area has its own Act called the Greater London (General Powers) Act 1981 (GLGPA) along with The London Local Authorities Act 1991 (LLAA) which follows a similar adoptive approach to all other areas of England and Wales which are covered by the LGMPA. Essentially, within the Greater London area there is a system under these Acts which allows for licensing of premises offering 'special treatments', which include massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatments of a like kind or vapour, sauna, or other baths.<sup>10</sup>

The provisions under this (1991) Act are adoptive, with no model bylaws available. Under the LLAA, it is also the premises that is required to be licensed, not the persons carrying out the treatments which again differs to the approach taken under LGMPA. Some exemptions remain however that are consistent with the LGMPA, which include medical doctors or members of a bona fide body of health practitioner being exempted. Activities for which no gain or reward are received, can also be exempted from needing to be licensed. This draws a parallel comparison to some of the current New Zealand bylaws which exempt traditional or customary practices, usually tattooing, offered under Tikanga Māori, usually undertaken as a rite of passage, or on a marae or other significant place.

---

<sup>10</sup> The London Local Authorities Act 1991, Part II. Accessed 8 September 2024.

### 5.3 The Tattooing of Minors Act 1969

This Act is very short in length, and simply mandates that no person under the age of 18 years can receive a tattoo. The only exception to this, is if the tattoo is for medical reasons or performed under medical supervision.

There is no statutory minimum age for any form of skin piercing, however some licensing frameworks such as the London Local Authorities Act 1991, allow for a minimum age to be introduced. This has not been consistently applied.

### 5.4 The Health and Care Act 2022

This Act gives government the power to introduce a licensing scheme for English practitioners, which would be by way of secondary legislation (such as regulations). No such scheme has to date been introduced, and it is evidently still being considered.

As a relatively new piece of legislation, some sections are not yet in effect, such as section 180 which relates to the licensing of cosmetic procedures, which also relates to schedule 19 within the Act.

The overall aim of the Act, however, is to reduce the risk of harm associated with ineffectively performed *non-surgical* cosmetic procedures, which are referred to as 'aesthetic procedures.'

Being licensed will require all practitioners who perform the specified non-surgical cosmetic (aesthetic) procedures to provide evidence that they meet a (new and yet to be defined) minimum standard of training, education, and skill competence.

The intent is for practitioners to be inspected and checked against certain standards prior to receiving a licence. The requirements for a practitioner and a premises licence will be set out in the regulations. The exact content and format of the regulations is yet to be determined.

Cosmetic procedures, as defined by the act, include:

- The injection of a substance;
- The application of a substance that is capable of penetrating into or through the epidermis;
- The insertion of needles into the skin;
- The placing of threads under the skin;
- The application of light, electricity, cold or heat.

The exact procedures within this definition are expected to be defined further as regulations and licensing regimes are drafted.

### 5.5 Health and Safety at work etc Act 1974

This Act contains general clauses in relation to maintenance, handling, storage and transport of articles and substances, along with information, instructions, training, and supervision provisions that contribute to and provide for safety and the absence of risks to health.

The provisions are more so related to ensure the health, wellbeing and safety of staff when conducting their day-to-day duties within their chosen workplace, as opposed to providing specific hygiene standards towards clients. However, by staff ensuring their wellbeing and safety, there are indirect benefits to ensuring the safety and health of clients.

## 5.6 CIEH Tattooing and Body Piercing guidance toolkit

### 5.6A Document overview and conception

In 2013, the Chartered Institute of Environmental Health (CIEH) alongside Public Health England, Health and Safety Laboratory and The Tattooing and Piercing Industry Union collectively released a compiled guidance document relating to tattooing and body piercing.

This document is an example of Medical Officers of Health (Public Health England), working alongside regulators (CIEH – Environmental Health professionals), with science based specialists and industry coming together by way of a working group, to collectively use evidence-based research and experiences, and produce a summary of current legislative requirements for these industries within the United Kingdom (UK), and also suggest guidelines (minimum standards) which these industries should meet. This has similarly occurred in the USA, led by The National Environmental Health Association of America (NEHA), alongside regulators, Environmental Health specialists and multiple industry representatives to produce a Body Art Model Code (set of minimum standards/guidelines), which are essentially regulations (state by state if adopted) for these industries to follow and meet.

The development of the (UK) guidelines was in response to concerns being raised by industry and environmental health specialists, about the lack of robust and consistent hygiene standards and safe practices, leading to inconsistencies in advice and variations regarding the standards of practice required to protect public health.

In addition, this guidance document has produced a model bylaw (spelt byelaw in UK context) for individual territorial authorities (councils) to adopt if they wish. The intent behind this was “to support local authorities and other regulatory officers in determining their requirements for effective control or risk in these activities and to promote a consistent approach”<sup>11</sup>.

### 5.6B What does the guidance document cover?

Part 1 of the document sets out the current legislative and regulatory environment and outlines the legislation that exists currently governing the tattooing and body/skin piercing industries.

From Part 2 onwards, is essentially an outline of the guidance and provisions towards introducing and discussing minimum standards to ensure safe hygiene practices are met. Below is an overview of what is covered:

#### Part 2:

Infection prevention and control guidance:

- Hand hygiene:
  - Facilities, when and how to wash hands.
- Personal Protective Equipment (PPE):
  - Gloves – their use, purpose, types of gloves discussed;
  - Aprons and clothing coverings;
  - Eye/face protection.
- Management of sharps/needles.
- Management of exposure to blood and bodily fluids.
- Safe handling, storage, and disposal of waste materials.

---

<sup>11</sup> CIEH Tattooing and body piercing toolkit, 2013, page 4: Introduction. Accessed 8 September 2024.

- Cleaning and disinfection of the environment:
  - Cleaning equipment overview and discussion;
  - Chemical use, including types of chemicals to use.

### Part 3:

Before and aftercare of a tattoo or body piercing:

- Skin preparation;
- Aftercare advice.

### Part 4:

Principles of decontamination:

- Risk rating provided (for types of equipment capable of transmission of infection);
- (Physical) Decontamination area layout;
- Cleaning: How to clean, why clean, use of detergents, steps before disinfection and/or sterilisation;
- Use of disinfectants;
- Sterilisation – types of sterilisation E.g. autoclaves and the best practice approach towards them;
- Decontamination of blood/bodily fluids within the working environment, including the use of PPE.

### Part 5:

Product quality of tattoo ink:

- Microbiological and chemical quality concerns;
- Product safety data sheets, checking expiry dates.

### Part 6:

Body piercing jewellery:

- Types of metal used within jewellery.

### Part 7:

Governance:

- Training and competence:
  - Procedure manuals and policies (should be developed);
  - Auditing and Quality Control (Self-verification tools).
- Record keeping:
  - Consent forms, aftercare advice;
  - Staff training records;
  - Incidents and risk register.

### Part 8:

Management of infectious disease incidents relating to tattooing and skin piercing:

- What is an outbreak, how to respond to an outbreak.

## Part 9: Appendices:

- Appendix 1: Model Bylaw example (link provided).
- Appendix 2: Infection: it's causes and spread (including a glossary of infection-related items).
- Appendix 3: Blood borne viruses.
- Appendix 4: Safe use and disposal of sharps.
- Appendix 5: First aid following a blood/body fluid exposure.
- Appendix 6: Protocol for cleaning up a blood- or blood-stained body fluid spill.
- Appendix 7: Principles of good waste handling.
- Appendix 8: Template protocol for environmental cleaning of premises.
- Appendix 9: Tattooing/body piercing consent form (template).
- Appendix 10: Aftercare follow-up record sheet (template).
- Appendix 11: Decontamination requirements for equipment used in tattooing and skin piercing.
- Appendix 12: Equipment sterilisation standard – self-assessment and decision making tool for tattoo and body piercing practitioners.
- Appendix 13: Equipment and body piercing jewellery sterilisation standard for tattooists and body piercers.
- Appendix 14: Autoclave daily record sheet (template).

Part C of the toolkit then provides numerous examples of information sheets, covering topics such as aftercare for: tattoos, ear and face piercings, oral piercings, body and surface piercings, genital piercings (female and males versions), and micro dermal implants. Further guidance and tools include a (visual) step by step of how to conduct handwashing, and an audit (self-verification) checklist.

### 5.6C Discussion of the CIEH Guidance toolkit

The CIEH guidance document broadly covers similar content to most New Zealand bylaws. The main exception is the appendices, particularly the offering of template consent forms, aftercare record sheets and autoclaving record sheets. The appendices within this guidance document offer a mixture of more detailed information (somewhat outside the guidance document, intended as supplementary information) along with providing examples (templates) that can be used or adapted.

New Zealand bylaws for the most part do not offer the template aspects like the CIEH guidance document does. The New Zealand bylaws that follow a Code of Practice approach, tend to be lengthier documents with more detail around specific procedures. The potential downside to this is a too prescriptive list (which becomes limiting and difficult to enforce) and can create a large degree of repetition within the Code itself. In that respect, the layout of the CIEH guidance document appears more concise with general information and provisions about infection control clearly outlined at the start of the document, therefore not needing to be repeated throughout.

The background section of the guidance document outlines the increased prevalence and popularity within these industries, even within the last decade (which would be the early 2000s onwards). The authors suggest this mirrors what we have seen and continue to see within New Zealand, a growing rate of prevalence of operators within these industries, driven by the increased demand and popularity for said services.

The risks remain the same no matter where in the world these industries operate; blood-borne viruses or pathogens such as Hepatitis B, C, or D or HIV are particularly relevant where skin is pierced. Therefore, having safe working practices and good infection control practices protect clients and industry workers alike.

## 6.0 Australian regulatory framework for the Appearance Industries

For the purposes of this report, only the six states of Australia were reviewed regarding what legislation applies to the appearance industries within Australia. Territories were not considered due to their relative size compared to the six main states.

### 6.1 New South Wales

The overarching legislation within New South Wales (NSW) is the *Public Health Act 2010*. This Act outlines general health risks and provisions, including state of emergency provisions, drinking water, legionella, control of public swimming and spa pools and control of skin penetration procedures. As with most such Acts, provisions are outlined regarding the powers of authorised officers. Such tools include the ability to issue improvement or prohibition orders. Other provisions within the Act are more administrative such as registers needing to be kept, notifications being made (for example of infectious diseases), and general statutory powers available. There are also schedules of medical conditions, types of infection and diseases, alongside vaccine preventable diseases.

#### 6.1A Skin Penetration procedures

Division 4 of the Public Health Act 2010 relates to the Control of Skin Penetration procedures. Section 39 outlines powers in relation to issuing training directions and prohibiting specified procedures from being undertaken (if a person is found guilty of an offence under the Act). Section 39A relates to eyeball tattooing specifically, which can only be undertaken by a medical practitioner or other qualified person (as stated within regulations).

The Object of the Act is to promote, protect and improve public health. The Act achieves this by trying to provide tools and ways of controlling risks to public health which include infectious diseases (and their spread). The role of local government in actively protecting public health is recognised within the Act, including local government's role to help monitor diseases and conditions that would affect public health.

Skin penetration is defined within the Act as follows:

*“Any procedure (whether medical or not) that involves skin penetration (such as acupuncture, tattooing, ear piercing or hair removal or the penetration of a mucous membrane), and includes any procedure declared by the Regulations to be skin penetration”.*<sup>12</sup>

The Act goes on to outline that skin penetration does **not** include procedures carried out by a registered health practitioner or person acting under direct supervision thereof in the course of providing a health service, or anything deemed not to be skin penetration within the regulations such as laser hair removal.

Regarding the above definition, it is important to understand what is meant by health practitioner and health services. These both have the same definition under the Act as is outlined in the *Health Care Complaints Act 1993* and read as follows:

---

<sup>12</sup> New South Wales Government Public Health Act 2010, Section 5: Definitions – Skin Penetration, page 13. Accessed 14 September 2024.



Health practitioner:

*“A person who undertakes a health service.”*

Health service:

*“Includes medical, hospital, nursing and midwifery, dental services, mental health, pharmaceutical, ambulance, community health, health education, welfare services, Aboriginal health practices, medical radiation, Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry, psychology, optical dispensary, dietician, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services, alternative health care field services, and forensic pathology services”.<sup>13</sup>*

The above is a long list of services, the majority of which all appear to be medical in nature. (Notably, hairdressing, tattooing, skin piercing and other high volume Appearance Industry activities are not in this list, not being considered as health services.)

The Regulations made under the Public Health Act are titled *The Public Health Regulations 2022*. It is under part 4 of these regulations, that the provisions relating to skin penetration procedures are outlined.

Section 34 outlines premises requirements, which in summary include premises needing to be:

- Clean and hygienic;
- Have waste disposal provisions;
- Provide wash hand basin and equipment sinks;
- Have single use gloves, gowns, aprons etc available and for all equipment to be in good working order and clean;
- Sharps containers must be available and sterile disposable needles used.
- Reusable articles must be sterilised:
  - Provisions outlined regarding steam sterilisers (autoclaves) in that at least one person must be trained to use the autoclave, which also needs to be serviced annually and records of sterilisation loads kept for 12 months.

Section 38 outlines the use of needles, sharps, and other articles, all of which must be single use, sharps must be contained in sharps containers.

Section 39 outlines personal protective equipment (PPE) that must be worn, including gloves. (Interestingly, there is an exception to wearing gloves when waxing unless there is a risk of bodily fluid exposure.)

Section 40 covers the use of inks and pigments, and section 41 covers the use of wax. For both sections, inks and wax etc must all be single use and decanted before use on clients.

Section 43 outlines the requirement of local governments to keep a register of all licensed skin penetration premises within their area.

Schedule 3 of the Regulations also provides a code of conduct for non-registered health practitioners, in that such people are to be treated like registered health practitioners regarding competency and needing a clinical basis for undertaking treatments etc with reference to the same definitions used in the Health Care Complaints Act 1993 for health practitioner and health service.

---

<sup>13</sup> New South Wales Health Care Complaints Act 1993, section 4: Definitions. Accessed 21 September 2024.

## 6.1B Tattooing

There is a specific Act in relation to tattooing in NSW, The *Tattoo Industry Act 2012*. This Act was last updated in September 2023, and clearly states that the application of this Act does not limit the provisions of any other Act, such as the Public Health Act 2010.

Under the Tattoo Industry Act, all body art tattooing businesses and artists must be licensed. A master licence is held by a business, with a tattooist licence being held by the individual. There are also provisions available for visiting tattooist licences, which covers guest artists (travelling from out of State) or the likes of tattoo expos and shows being held.

The Act is mainly concerned with ensuring licences are held. It is an offence under this act to advertise tattooing if no licence (of some description) is held.

When applying for a licence however, the licensing timeframe can be variable depending on what the applicant applies for. One-, three- or five-year licensing periods are available, with the frequency seemingly heavily influenced by whether it is in the 'public's interest' to have a licence issued for a set length of time.

The threshold to obtain a licence is high, with persons (and businesses) needing to be essentially conviction free, of age (18 years or older), with finger and palm prints needing to be consented to being available and the master licence holder having to provide financial records. Any staff changes must be advised to the relevant authority (usually local council).

The *Tattoo Industry Regulations 2023*, furthermore allow for tattooing show permits to be issued with visiting tattooist permits able to be issued for a maximum of 3 months duration. The regulations also require a tattooing procedures log to be kept (regardless of if tattooing is undertaken for fee or reward), with dates of the procedure, that tattooist name and licence number, the payment amount and receipt reference all documented. Finally, the regulations contain a list of prescribed criminal organisations (mostly gangs) that any licence holder is not to be affiliated with or a member of if they wish to hold a licence.

## 6.1 C Discussion of New South Wales Framework

The tools available for authorised officers under the Act, namely improvement and prohibition orders, are similar in nature to tools available within New Zealand under The Food Act 2014. Such tools are reflective of modern legislation and provide a compliance and enforcement option beyond essentially letters requesting compliance on one end of the scale and prosecution at the other end of the scale.

The Regulations outline broad provisions covering people, places, and procedures with a focus on ensuring equipment is sterile and single use (or at least sterilised appropriately if reusable). From a risk perspective, this is where the main attention is focused, however the regulations are relatively silent on client consent and aftercare, along with staff training and competency requirements. The one exception to this is the specific mention of one person (at least) needing to be trained/have knowledge of how to use a steam steriliser (autoclave) appropriately. Again, this requirement and specific mention of training highlights the key public health focus of ensuring equipment is properly sterilised.

The Tattoo Industry Act 2012 and its regulations appear to be heavily focused on licensing and the suitability of an applicant/licence holder. This draws parallels to The Sale and Supply of Alcohol Act 2012 in New Zealand, whereby applicant suitability is one of the key criteria assessed for applicants

being able to successfully hold an alcohol licence or Manager's certificate (to be a duty manager) under the Act.

The heavy focus on suitability with respect to having no links to criminal organisations, arguably does not help promote the profession of tattooing as a genuine art form, rather it highlights what is likely becoming more of an outdated perception of tattoos only being for bikers, sailors, or criminals (within the corrections system, *ie.* incarcerated). The provisions under the Public Health Act 2010 and regulations address the public health concerns in relation to hygiene, sterilisation etc which at least tries to address the 'health' aspect of tattooing procedures - something the Tattoo Industry Act 2012 and its regulations do not appear to be focused on at all.

## 6.2 Queensland

The principal act within Queensland for the appearance industries is the *Public Health (Infection Control for Personal Appearance Services) Act 2003* (last updated 1 February 2024). The purpose of this Act is to minimise the risk of infection that may result from the provision of personal appearance services.<sup>14</sup>

The Act requires operators to take reasonable precautions to minimise infection risks, with a licence needing to be held. Operators providing higher risk services also need to hold an infection control qualification. Section 9 of the Act states it is a function of local government (Environmental Health Officers) to administer and enforce the Act.

Health services are not included under the Act, with Health Services having the same definition as per the *Hospital and Health Boards Act 2011* which in summary means maintaining, improving, restoring, or managing people's health and wellbeing. This is via services provided to people at a hospital, residential care facility, community health facility, or other place, and includes services dealing with public health including prevention and control of disease or sickness, prevention of injury, and the protection and promotion of health such as providing for example, a cancer screening programme.<sup>15</sup>

### Definitions under the Act

Beauty Therapy is defined within section 11 of the Act as:

*"A procedure other than hairdressing, intended to maintain, alter, or enhance a person's appearance, including the following: Facial or body treatments, application of cosmetics, manicure or pedicure, application/mending of artificial nails, epilation including by electrolysis or by hot or cold wax."*

Body Piercing is defined within section 12 of the Act as:

*"The process of penetrating a person's skin or mucous membrane with a sharp instrument for the purpose of implanting jewellery or other foreign material through or into the skin or mucous membrane."*

---

<sup>14</sup> Queensland Public Health (Infection Control for Personal Appearance Services) Act 2003, section 7: Purpose of Act. Accessed 15 September 2024.

<sup>15</sup> Queensland Hospital and Health Boards Act 2011, section 15: Meaning of Health Service. Accessed 15 September 2024.

Exemptions are also listed under this definition which include ear or nose piercings undertaken with a closed instrument that doesn't come into contact with the person's skin or mucous membrane; or is fitted with sterile single-use disposable cartridge containing sterilised jewellery and fittings.<sup>16</sup>

Section 14 of the Act defines what higher risk services include, which is essentially skin penetration services where the release of blood or bodily fluids is expected. Such services include body piercing, implanting natural or synthetic substances into a person's skin, scarring, or cutting a person's skin using a sharp instrument to make a permanent mark, pattern, or design, tattooing, or any other skin penetration procedure prescribed under a regulation.<sup>17</sup>

Skin Penetration and Tattooing are also defined under sections 17 and 18 of the Act respectively, with tattooing also including cosmetic tattooing and semi-permanent makeup within the definition.

It is the responsibility of the business and operator (holder of respective licences) to take all reasonable precautions and care to minimise infection risk, which is outlined in section 19 of the Act.

Section 24 of the Act outlines that a person undertaking a higher risk personal appearance service must hold an infection control qualification. This qualification is defined as:

*"A certificate issued by a registered training organisation to an individual stating that the individual has achieved an infection control competency standard prescribed under a regulation".*

What constitutes a 'registered training organisation' falls under the *Commonwealth National Vocational Education and Training Regulator Act 2011* under section 3 of this Act which describes how (training/education facilities) can become registered or accredited.

#### Licensing/Registration process

Applications for a licence can be made under section 32 of the Act for either fixed or mobile premises. It is the role of inspectors (Environmental Health Officers) under section 105 of the Act, to monitor compliance by inspecting business, usually annually.

The suitability of a person (section 35) and the suitability of the business or premises (section 36) broadly cover building occupancy and compliance, ensuring cleaning and waste disposal equipment is available to ensure safe infection control practices, and that sterilising of equipment must occur to enable safe infection control practices, including provisions for allowing equipment to be sterilised offsite. The maximum licensing period is for 3 years with possible licensing conditions including the requirement to have a copy of the infection control guidelines onsite, and ensure fixtures, fittings and equipment is maintained in good repair and operational order.

Mobile trading is mentioned under section 65, with notifications being required if higher risk personal appearance services are offered (in a mobile capacity), with details of the unit provided along with evidence of an infection control qualification being held either having to be provided if not stated on the licence.

---

<sup>16</sup> Queensland Public Health (Infection Control for Personal Appearance Services) Act 2003, section 12: Meaning of Body Piercing. Accessed 15 September 2024.

<sup>17</sup> Queensland Public Health (Infection Control for Personal Appearance Services) Act 2003, section 14: Meaning of higher risk personal appearance service. Accessed 15 September 2024.

## 6.2A Public Health (Infection Control for Personal Appearance Services) Regulations 2016

These regulations are very short and provide some further clarification around two main areas: tattoo removal and what infection control qualification means.

Section 3 of the regulations relates to tattoo removal. Tattoo removal is included under the 2003 Act (section 14 (e)) only where skin is penetrated. Therefore, laser tattoo removal is not seen as a higher risk personal appearance service but a low-risk service instead.

Section 4 of the Regulations outlines the Infection Control Competency Standards, which is a specific qualification 'HLTINF005' approved by the Australian Industry and Skills Committee, with the qualification titled 'Maintain infection prevention for skin penetration treatments'.<sup>18</sup>

## 6.2B Infection Control Guidelines for personal appearance industries 2024:

These Guidelines were developed under section 28 of The Public Health (Infection Control for Personal Appearance Services) Act 2003 and provide evidence-based best practice recommendations to minimise the risk of infection during the provision of personal appearance services. It is a requirement of all licensed operators to comply with these guidelines – essentially, they act as the regulations under the overarching Act.

The Guidelines in summary, cover the following:<sup>19</sup>

- Basic infection prevention principles.
- Hand hygiene:
  - When to wash hands, facilities setup.
- Aseptic non-touch technique:
  - Protection of 'key parts' of a process that must remain sterile, e.g. needle tips.
- Personal Protective Equipment (PPE):
  - Glove use – disposable versus sterile glove use, aprons, eye protection, etc.
- Safe handling and disposal of sharps.
- Exposure to blood and body substances.
- Routine environmental cleaning:
  - Cleaning & maintenance of premises and management of blood and body substance spills.
- Cleaning, disinfecting and/or sterilising of reusable equipment and instruments:
  - Automated and manual cleaning, thermal and chemical disinfection, sterilisation overview, types of equipment & instruments used for skin penetration.
- Safe handling, storage, and disposal of linen and waste materials.
- Animals.
- Materials and instruments used in non-higher risk personal appearance services:
  - Hairdressing, including shaving, beauty and nail treatments, electrolysis, closed ear and nose piercings, foot spas.

---

<sup>18</sup> Queensland Public Health (Infection Control for Personal Appearance Services) Regulations 2016, section 4. Accessed 15 September 2024.

<sup>19</sup> Queensland Public Health (Infection Control for Personal Appearance Services) Act 2003 - A guide for local governments Page 16. Accessed 10 September 2024.

- Skin penetration procedures:
  - Preparing the skin, PPE, single-use instruments.
- Body piercing, tattooing and microblading:
  - Choice of jewellery, tattoo inks & stencils, tattoo machines and cosmetic tattooing machine discussion, microblading & eyebrow tattooing.
- Records for higher risk personal appearance services:
  - E.g. Sterilisation and reprocessing records, staff training & competency records, maintenance records, client consent forms.

Appendices include guidance on cleaning instruments, processing (and reprocessing) of reusable instruments, sterilisation of instruments, and hand hygiene posters (showing step by step procedures).

Australian Standard *AS 5369:2023 Reprocessing of reusable medical devices and other devices in health and non-health related facilities*, sets out the requirements and practices necessary for the effective and safe reprocessing (cleaning, disinfection, and sterilisation), storage, handling and transportation of reusable instruments and equipment used for personal appearance services.<sup>20</sup>

### 6.2C Queensland Tattoo Industry Act 2013

The purpose of this Act is “to regulate the body art tattooing industry to minimise the risk of criminal activity in the industry”.<sup>21</sup>

The Act states that tattoo businesses and artists must be licensed, with suitability criteria outlined that both businesses and individual must meet. This includes providing fingerprint and palm prints and providing a full criminal history report for review. Licensing provisions such as how licences can be issued, suspended, or cancelled are also outlined within the Act.

The Act also outlines licensing provisions for tattoo shows and visiting tattoo artists. Records of all tattooing procedures must be kept which include who was tattooed (client), when and by whom. Such records are not focused on health effects in terms of the client giving consent (in a health context) but are required for traceability to know who is being tattooed by whom more from a monitoring possible criminal activity perspective it seems.

### 6.2D Discussion of Queensland’s framework

Queensland’s approach overall is a two-tiered system for high and low risk services. High risk services include tattooing, body piercing, and cosmetic injectables, with low-risk services including hairdressing and beauty therapy services (unless skin is penetrated).

Hairdressers are separated out from beauty therapy and other appearance industries in that they are not seen as being the same as beauty therapy services, even though hairdressers do broadly fall under the Personal Appearance Queensland Act.

The definition of body piercing within the Queensland Act exempts ear and nose piercing (if undertaken with a closed instrument and conducted with sterile single-use disposable cartridges). The New Zealand comparison is that pharmacists are exempt from all the current 14 bylaws in existence

<sup>20</sup> Public Health (Infection Control for Personal Appearance Services) Act 2003 - A guide for local governments Page 18. Accessed 10 September 2024.

<sup>21</sup> Queensland Tattoo Industry Act 2013, section 3: Main purpose of Act. Accessed 15 September 2024.

within New Zealand, as pharmacists fall under the Health Practitioners Competence Assurance Act 2003. Many pharmacies within New Zealand though will offer ear piercing services, usually by way of a gun or cartridge system (sterile single use) being used.

The guidelines made under section 28 of the Act are very new, having only been released in August 2024. Overall, the guidelines cover the basic principles of people, places, and processes including conduct, premises requirements and how items are cleaned, disinfected, and sterilised. There are risks associated with people, places, and the procedures themselves which these guidelines clearly acknowledge, with particular focus given to sterilisation and conduct practices such as the use of steam sterilisers (autoclaves) and the likes of hand washing practices being focused on. The need to hold an infection control qualification is a positive step in the authors opinion towards ensuring operators understand the risks and how infections can spread.

### 6.3 South Australia

Beauty therapy within South Australia seems to be unregulated for the most part, with industry groups providing Codes of Practice and guidelines and otherwise only some services and procedures falling under the principal Act, *The Public Health Act 2011*.

The Public Health Act 2011 replaced the Public and Environmental Health Act 1987 over a two-year transition period and has links to the *Work Health and Safety Act 2012* (and subsequent Regulations 2012). The South Australian Hair and Beauty Association for example, has produced a Guide in 2020 for their industries, as a supporting Code of Practice to the Health and Safety Act. This covers mostly safety elements such as conducting electrical checks of equipment, use of hazardous chemicals etc, and not public health measures specifically aimed at infection control. Hairdressers and barbers are covered in South Australia by the Hairdressers Act 1988 (and subsequent regulations enacted in 2016).

The Public Health Act 2011 is quite broad in nature covering all elements of public health; however, it is under Division 4 (sections 37 to 42) which covers off the role of councils/local government in administering the Act. The *Guidelines on the safe and hygienic practice of skin penetration 2004* sit under the Act, making the guidelines effectively like regulations, and enforceable.

#### 6.3A Guidelines on the safe and hygienic practice of skin penetration 2004

These guidelines were produced by the South Australian Public and Environmental Health Council under the State Department of Health. The Council was formed under the previous legislation (The Public and Environmental Health Act 1987) but carries over into the new Act. The provisions enable Councils (formed under the Act) to develop guidelines to assist local government in the administration of the Act.

Skin penetration for the purposes of these guidelines is defined as:

*“Any process whether intentionally or otherwise, that involves the shaving, piercing, cutting, puncturing or tearing of the skin or mucous membrane”.*<sup>22</sup>

---

<sup>22</sup> South Australia Guidelines on the safe and hygienic practice of skin penetration 2004, Definition section: Skin Penetration. Accessed 15 September 2024.

The guidelines in summary cover the following:

- Risk Mitigation.
- Personal Hygiene:
  - Hand hygiene (when, how), general hygiene provisions such as clothing, conduct towards smoking, eating, jewellery policies (worn by staff) etc.
- Gloves:
  - Sterilisation procedure glove use and general cleaning glove use discussed.
- Aseptic Procedures:
  - Equipment to be single-use or else reusable equipment to be properly sterilised, use of creams, lotions, oils, and pigments also discussed.
- Cleaning, Disinfection, and Sterilisation:
  - Records of sterilisation processing to be kept including any reprocessing undertaken, use of UV cabinets discussed along with steam sterilisers (autoclaves) and the common time/temperature/pressure settings for these units.
- Skin preparation:
  - Shaving, use of antiseptics.
- Environment:
  - Work area, furnishings and fittings, linen use, surfaces, storage, management of blood spills, cleaning of environmental surfaces, waste management, sharps containers to be used.
- Needlestick injuries.
- Specific requirements:
  - Bleeding management, knowledge of procedures, after care, acupuncture, body piercing, jewellery, colonic irrigation, electrolysis, lancing, micropigmentation, nail manicures and pedicures, tattooing and waxing.
- Skin Penetration HACCP plan:
  - Required by operators – outlines higher risk activities/areas and how these are to be managed.
- Appendices
  - Appendix 1: Cleaning and sterilisation of equipment flow diagram
  - Appendix 2: Suggested reprocessing area layout (diagram)
  - Appendix 3: Blood and body fluid exposure action plan (flow diagram)
  - Appendix 4: Skin Penetration HACCP Plan

### 6.3B Tattooing Industry Control Act 2015

Tattooists within South Australia are regulated mainly by Consumer and Business Services (CBS), though there is some cross over to the guidelines on the safe and hygienic practice of skin



penetration, with tattooing also being defined and covered by these guidelines. The CBS is the body however, where notifications are required of any tattooing occurring. Notifications do not incur any fee, but are required by any business, individual or seller of tattoo supplies or equipment. An exemption applies to any tattoos administered as medical treatment or tattoos that resemble makeup. The notification requires information about the address, business details (who company directors are, etc), lease information, employees (of a tattooing business), and the locations where tattoos will be undertaken e.g. within a parlour or at a show.

The Tattooing Industry Control Act aims to regulate the tattoo industry to prevent criminal infiltration of the tattooing industry and for other purposes.<sup>23</sup>

Tattooing is defined as *'To insert into or through the skin any colouring material designed to leave a permanent mark'*.<sup>24</sup>

The definition of a tattooing service is summarised as including individuals, businesses, or those who sell or supply (or offer to sell or supply) tattooing equipment (excluding the pure delivery of said equipment e.g. Australia Postal services).<sup>25</sup>

The Act overall is suitability focused, including applicants for a licence needing to not have certain convictions or criminal affiliations. Sections 20 to 22 of the Act, outline the powers of police regarding the power to search a premises, seizure powers for drugs, weapons and/or explosives found within a premises.

Part 3, section 12 of the Act outlines provisions of authorised officers who may direct persons (give a direction) for the purpose of averting, eliminating, or minimising risk or perceived risk to the safety of the public. Records of all tattooing procedures must also be kept detailing who received the tattoo, when, where, etc.

### 6.3C Discussion of South Australia's Framework

The Skin Penetration HACCP Plan under the South Australian framework is the first and only Australian state to introduce such a concept. HACCP principals form the foundation of most food safety legislation framework globally, which adopt a risk-based approach. This is a great initiative to apply to other (non-food) disciplines, as the principals remain the same – the highest risk activities, require the higher level of focus, compliance, and overall attention to effectively manage, mitigate, lower, or eliminate potential risks.

Risk appears to have been carefully considered in the drafting of the guidelines, with inclusions such as a diagram outlining an ideal reprocessing area setup (for cleaning, disinfection, and sterilisation). This is very much infection control focused, which is pleasing to see from a public health perspective.

The Tattooing Industry Control Act, as for some other Australian states, seems to be primarily focused on reducing criminal activity and affiliations within the tattooing industry, rather than being public health focused. The provisions relating to powers of the police to search, and seize drugs, weapons and explosives begs the question of what the major concerns were within South Australia before the introduction of this Act, that saw high levels potentially of drugs, weapons, and explosives within tattooing establishments.

---

<sup>23</sup> South Australia Tattooing Industry Control Act 2015, title page purpose. Accessed 15 September 2024.

<sup>24</sup> South Australia Tattooing Industry Control Act 2015, section 3: Interpretation – Tattoo definition. Accessed 15 September 2024.

<sup>25</sup> South Australia Tattooing Industry Control Act 2015, Section 4: Providing tattoo services. Accessed 15 September 2024.

## 6.4 Tasmania

Currently there are no legislative requirements for Beauty Therapists within Tasmania. Hairdressers and Barbers, however, do have their own set of regulations, which is similar to the current situation within New Zealand.

The *Public Health Act 1997* sets out guidelines for tattooing as well as ear and body piercing (both written in 1998), which effectively act as regulations under the *Public Health (Miscellaneous Provisions) Act 1997* in that the guidelines are enforceable under the Act. The authors understand a draft set of regulations have been created for Tasmania to regulate the appearance (specifically skin penetration) industries but are as yet to be finalised nor adopted by the state government, therefore these will not be considered for the purposes of this report.

Tattooing with respect to the guidelines, also includes cosmetic tattooing (semi-permanent, permanent makeup or derma-pigmentation). The definition of tattooing is covered under the scope section of the tattooing guidelines, however otherwise tattooing nor ear or skin/body piercing is specifically defined within either set of guidelines under the 1997 Act.

Some Beauty Therapists may therefore require a registration as either a tattooist (more likely) or skin piercer, if they penetrate skin e.g. microblading, offering cosmetic or semi-permanent makeup or tattooing.

The guidelines for both tattooing and skin piercing are set out very similar, following roughly the following format and content:

- How infections occur:
  - An overview of common infections and diseases including hepatitis and HIV.
- General provisions:
  - To use sterile equipment if penetrating the skin, including single-use needles, dispensers, and applicators;
  - Each person engaged in the activity of tattooing or skin piercing to be adequately trained in hygiene practices and infection control and is provided with adequate facilities and equipment, including protective clothing and suitable disposable gloves.
- Health and safety in the workplace:
  - The handling of sharps is outlined, including the need for a sharps container;
  - Guidance is provided regarding contact with blood and other body substances (from more so a health and safety perspective), whereby adequate systems need to be in place to prevent the risk of cross contamination or infection occurring.
- Requirements for tattooing/skin piercing:
  - The use of linen, single use ink caps, stencils and other equipment is discussed with items generally needing to be single-use disposable, otherwise if reusable items, these need to be cleaned, disinfected and/or sterilised appropriately according to the guidelines.
  - Skin is to be prepared appropriately, by way of using single use razors (if applicable) swabs for the skin such as isopropyl alcohol (or similar).

- A clean down procedure for after tattooing/piercing should be in place, which covers off requirements relating to disposal of sharps, rubbish, hand hygiene practices, surface and equipment cleaning and disinfection.
- Provisions relating to cleaning, disinfecting, and sterilising are outlined – all of which depend on the surface or equipment being used in terms of what level of cleaning, disinfection or sterilisation may be required.
- Premises requirements:
  - Premises in general, need to be able to be easily cleaned, have suitable facilities such as wash hand basins (with hot and cold running water), an equipment sink, protective coverings should be available as well as sharps containers and suitable waste receptacles.
- Staff hygiene & protective wear for staff:
  - Staff conduct in terms of hand and personal hygiene is covered (when, and how to wash hands, conduct regarding smoking, eating etc). This section also outlines personal protective equipment (PPE) requirements such as gloves, gowns and face/eye protection and suitable footwear to prevent needlestick injuries (as relevant).
- Record keeping:
  - Client information to be kept.
- Mobile tattooing/piercing:
  - Is prohibited due to these procedures being high risk.
- Age limit:
  - Persons must be 18 years or older to be tattooed (this is an offence under the Police Offences Act 1935), otherwise persons must be 16 years or older to receive a piercing (unless accompanied by a parent).
- Appendices:
  - Appendix A covers flow diagrams of cleaning processes (when equipment does/doesn't penetrate the skin).
  - Appendix B covers how to sterilise instruments:
    - Autoclave use, common settings;
    - Records of sterilisation processing to be kept: time, temperature, pressure achieved during autoclave cycles, chemical indicator strips and biological indicators also to be used, alongside 6-month autoclave servicing being required.
  - Appendix C covers needlestick injuries and what to do (both client and operator) in this scenario.

#### 6.4A Discussion of Tasmania’s framework

The style of guidelines is both educational and requirements-based, essentially giving commentary as to what is trying to be achieved, and then specifying how.

Interestingly, mobile trading is not permitted in any format for tattooing or ear and body piercing. Within New Zealand, such activities can be allowed across the fourteen bylaws currently in existence, and these activities are often seen in the likes of gypsy fairs which are mostly mobile in nature. A mobile premises such as a caravan unit, would arguably allow for stable conditions much like a fixed premises, compared to a more temporary stall setup, which could be subject to variances and rely heavily on other facilities such as hand washing facilities to be otherwise provided for.

The age limit for tattooing falling under police legislation (the Police Offences Act 1935), essentially appears to interpret underage tattooing as a form of abuse, given the invasive and permanent nature of the procedure. Such acts are not necessarily viewed with the same lens within New Zealand currently, with the age limits (or guidance age suggested in the Safe Skin Piercing Guidelines 1998) likely more relating to persons being of age to make an informed consented decision regarding procedures likely to have a lifelong effect/result.

The mention of biological indicators needing to be used within steam sterilisation cycles (autoclaves) essentially means some form of quality-control measure, such as an indicator strip or even spore test perhaps, should be used to demonstrate that the autoclave cycle functioned as it should have. The only indication of frequency of biological (spore) testing that is required, is after installation, testing or repairs (according to manufacturer’s instructions), with records needing to be kept.<sup>26</sup>

Staff training does not offer any insight into how staff are to be trained or by whom. The wording of ‘adequately trained’ in relation to ‘hygiene practices and infection control’ is therefore open to interpretation. Would staff train themselves, is industry training or other qualifications such as undertaking an infection control (e.g. Bloodborne pathogen) course required? From a risk perspective, it appears the intent of the wording is suggesting staff must be aware and taking the best practicable option to reduce any chance of cross-contamination or infection potentially occurring, whether this is via formal training or not.

#### 6.5 Victoria

The principal act within Victoria is the *Public Health and Wellbeing Act 2008*. Within this Act, beauty therapy, skin penetration and tattooing are all defined as follows:

Beauty Therapy<sup>27</sup>:

*“Means a procedure, not including any surgical or medical procedure, intended to maintain, alter, or enhance a person's appearance, including by—*

- (a) facial or body treatment;*
- (b) (repealed)*
- (c) manicure or pedicure;*
- (d) application or mending of artificial nails;*

---

<sup>26</sup> Tasmania Department of Health: Guidelines for Ear and body piercing 1998, page 43 and Tasmania Department of Health: Guidelines for Tattooing, 1998, page 43. Both accessed 14 September 2024.

<sup>27</sup> Victoria Public Health and Wellbeing Act 2008, section 3: Definitions – Beauty Therapy. Accessed 15 September 2024.

*(e) epilation, including by electrolysis or hot or cold wax—  
but does not include hairdressing, tattooing or skin penetration.”*

Skin Penetration<sup>28</sup>:

*“Means any procedure performed on a living human being, not being a surgical or medical procedure, involving piercing, cutting, scarring, branding, scraping, puncturing or tearing of their skin or mucous membrane using an instrument but does not include tattooing.”*

Tattooing<sup>29</sup>:

*“Means any process involving penetrating a person's skin for the purpose of inserting colour pigments—*

- (a) to make a permanent mark, pattern, or design on the skin; or*
- (b) to make a semi-permanent mark, pattern or design on the skin including the process of applying semi-permanent make-up or cosmetic tattooing.”*

Section 24 (d) of the Act allows Councils to make standards that seek to protect, improve, and promote public health and wellbeing. Standards in this context relates to regulations and guidelines.

Section 68 under Division 3 of the Act relates to the registration of certain businesses. This includes beauty therapy, applying cosmetics (not including skin penetration or tattooing), colonic irrigation, hairdressing, skin penetration, and tattooing. Of these business types, the following are deemed under the Act to be low risk, therefore requiring a ‘lower risk services registration’: Applying cosmetics (not including skin penetration or tattooing) and hairdressing.

Registrations are made with local government (councils) with Environmental Health Officers inspecting premises annually. Lower-risk services such as beauty therapy (without skin penetration services), can register a mobile premises if they also register a base premises. Health practitioners providing health services are exempt from requiring registration. Health services are defined under the Act and in summary include a day procedure centre, a denominational hospital, a multi-purpose service, a private or a public hospital.

#### 6.5A Public Health and Wellbeing Regulations 2019

Section 30 of these regulations outline the conditions of equipment used for skin penetration requirements, such as reusable equipment must be suitability sterilised at the time of use.

Section 31 outlines that disposable equipment is to be used unless equipment can be processed via steam sterilisation (an autoclave), with times, temperature and pressure combinations listed as guidance. Personal hygiene guidance, including hand hygiene provisions are outlined in section 33 with client record requirements outlined in section 35.

---

<sup>28</sup> Victoria Public Health and Wellbeing Act 2008, section 3: Definitions – Skin Penetration. Accessed 15 September 2024.

<sup>29</sup> Victoria Public Health and Wellbeing Act 2008, section 3: Definitions – Tattooing. Accessed 15 September 2024.

## 6.5B Summary Offences Act 1966

This Act outlines the age requirements for tattooing and body piercing procedures. These provisions are designed to protect young people in relation to tattooing, scarification, tongue splitting, branding, beading, and body piercing and read as follows:

- *“A person must not perform tattooing, scarification, tongue splitting, branding, or beading on any person under the age of 18 years. Tattooing includes semi-permanent or cosmetic tattooing.*
- *A body piercer must not perform intimate body piercing\* on a person under the age of 18 years.*
- *A body piercer must not perform non-intimate body piercing on someone under the age of 16 years without the consent\*\* of a parent or guardian.*
- *A body piercer must not allow a person under the age of 16 years to perform intimate body piercings\*.*

*\* Intimate body piercing includes piercing on the genitalia (including surgically constructed genitalia), anal region, perineum, or nipples of a person.*

*\*\* Consent is considered to be written (including in digital form) consent given in person to the body piercer by a parent or guardian of the person to be pierced; and if the person to be pierced is aged between 10 years and under 16 years the person to be pierced must give their consent also.”<sup>30</sup>*

## 6.5C Infection prevention and control guidelines for hair, beauty, tattooing and skin penetration industries (June 2020)

These guidelines help people in the hair, beauty, and skin penetration industries to comply with the Public Health and Wellbeing Act 2008 and the Public Health and Wellbeing Regulations 2019.

### The guidelines broadly cover:

Part A: Information about registration requirements for premises and relevant legislation.

- Premises and general requirements:
  - All equipment, furniture, fittings, floors, walls and ceilings should be constructed of materials suitable for the procedures to be undertaken in the area;
  - Surfaces that require regular cleaning and/or disinfection should be constructed of a durable, sealed, and non-porous material that can be effectively cleaned and disinfected;
  - There should be adequate lighting and ventilation throughout the premises;
  - Hand washing facilities and equipment sinks must be provided;
  - Record keeping (client records + sterilisation records) must be kept.

Part B: General information on how infections are spread and the principles of infection prevention and control that are used to prevent transmission of infection.

This includes how to:

- Clean, disinfect and sterilise instruments and equipment used to perform personal care and body art procedures;
- General hygiene provisions such as hand hygiene, personal protective equipment;
- The safe use and disposal of sharps, aseptic procedures;
- The handling of linen, waste etc;

---

<sup>30</sup> State of Victoria, Department of Health and Human Services, June 2020. Infection prevention and control guidelines for hair, beauty, tattooing and skin penetration industries, page 13. Accessed 12 September 2024.

- General cleaning provisions;
- Reprocessing of reusable equipment is also outlined, including the use of steam sterilisers (autoclaves).

Part C: Procedure-specific requirements:

- Hairdressing and barbering;
- Cosmetic application including eyelash tinting and spray tanning;
- Hair removal;
- Facials;
- Eyelash extensions;
- Manicure, pedicure and nail treatments;
- Dry needling and other therapeutic skin penetration procedures;
- Laser and intense pulsed light (cosmetic procedures and tattoo removal);
- Tattooing (including cosmetic tattooing);
- Body piercing and other forms of body modification.

Part D: Occupational health and safety requirements for hair, beauty, and skin penetration industries.

Appendices:

- Appendix 1: Ultrasonic cleaners
- Appendix 2: Steam sterilisers and the sterilisation process
- Appendix 3: Sample occupational exposure for blood-borne virus incident form

The guidelines overall are very detailed and educational, which is potentially highly beneficial to industry operators to inform them of the right way to do things, with the overall intent of lowering possible risks of infection occurring.

#### 6.5D Discussion of Victoria's Framework

The definition of 'Beauty Therapy' under the 2008 Act, specifically states that tattooing nor skin penetration falls under the category of Beauty Therapy. However, many procedures commonly performed by Beauty Therapists, such as microblading, cosmetic tattooing, semi-permanent makeup are all forms of tattooing. Therefore, Beauty therapists who undertake such services, also need to consider, and refer to themselves as tattooists (for the purposes of the Act) and be considered as such to ensure tattooing and potentially skin penetration provisions are applied to these operators.

The reference to age under the Summary Offences Act, speaks more so to enabling authorities to address possible claims of abuse, with this Act likely to be enforced by the police.

The 2020 guidelines contain a high level of detail, which are designed to assist operators in complying with the overall purpose and intent of the Act and Regulations.

## 6.6 Western Australia

Like other states within Australia, beauty therapy (in terms of the wider, broad scope of the industry) is not directly regulated within Western Australia. The procedures of electrolysis, waxing (and some forms of hair removal), manicures and pedicures along with cosmetic tattooing appear to be the extent of the scope for beauty therapy, with all these areas falling under 'skin penetration'. Cosmetic laser treatments, including for hair and tattoo removal, are regulated by the Radiological Council and must comply with the requirements of the *Radiation Safety Act 1975*<sup>31</sup>.

Western Australia boasts one of the oldest pieces of legislation in the realm of public health for the whole of Australia, with the *Health Act 1911* still being current. Under this Act, the general powers of councils (local authorities) are outlined, including the general powers of Environmental Health Officers which in this context, are the authorised officers. Part IX of the Act also covers off infectious diseases, though this is in more general terms in relation to all diseases and how they can be communicated within a broader public health context. Section 341 of the Act allows for regulations to be made under the Act. The regulations in effect are the *Health (Skin Penetration Procedures) Regulations 1998*.

The regulations have sitting underneath/alongside them, a code of practice for skin penetration procedures (also introduced in 1998 however, last updated in January 2017). It is a requirement of the regulations that premises and persons undertaking skin penetration procedures are not only registered but comply with all requirements of the code of practice.

Skin penetration is defined as "A procedure in which: the skin is cut, punctured, torn or shaved, or mucous membrane is cut, punctured or torn".<sup>32</sup>

Those exempt from the regulations include medical practitioners or dentists (or those persons working under the direct supervision thereof), podiatrists or nurses (undertaking podiatry or nursing practices).

The Code of Practice for Skin Penetration Procedures 1998 is in summary, set out as follows:

Standards for infection control:

- Standard precautions:
  - Handwashing (when, how etc);
  - Personal Protective Equipment (PPE): Glove use, gowns, face/eye protection, etc;
  - Handling of sharps;
  - Management of waste;
  - Blood and/or body fluid spills (how to address and clean-up said spills);
  - Needlestick and blood accidents (need to have policies to deal with such occurrences);
  - Animals, smoking & food preparation are prohibited in the procedure area;
  - Linen, sterile materials and solutions guidance (e.g. to be single use, properly cleaned, etc).

---

<sup>31</sup> Western Australia Consumer Protection agency media release, 3 August 2012. <https://www.commerce.wa.gov.au/announcements/ugly-side-beauty-and-cosmetic-treatments> Accessed 16 September 2024.

<sup>32</sup> Western Australia Department of Health, Health (Skin Penetration Procedures) Regulations 1998, Section 3 Interpretation, page 2: Definition of Skin Penetration Procedure. Accessed 14 September 2024.



- Selection and management of appliances:
  - Non-critical, semi-critical, and critical procedures are defined along with steps towards cleaning, disinfection, and sterilisation as relevant in relation to the category of procedure;
  - Cleaning appliances (methods used, including use of ultrasonic cleaners);
  - Disinfecting appliances (thermal and chemical disinfection);
  - Sterilisation and storage of appliances (Autoclave commentary: time/temperature/pressure settings, the use of chemical indicators, outline of dry heat sterilisation practices).
  
- Skin preparation:
  - Disinfecting solutions used, e.g. isopropyl alcohol or similar.
  
- Safe work environment:
  - Guidance on minimising risks and hazards;
  - Staff training and education required (more health and safety focused).
  
- Standards for premises:
  - Floors, walls, ceiling requirements, wash hand basin requirements (e.g. to have hot and cold running water);
  - All surfaces to be cleanable, smooth, impervious;
  - Lighting to be sufficient.
  
- Appendix 1: Needlestick and blood accidents:
  - Information for infected persons (what to do).
- Appendix 2:
  - Special requirements: Acupuncture:
    - Skin preparation, needle use & using sterile needles etc.
  - Special requirements: Beauty therapy procedures:
    - Wax use (no double dipping);
    - Single use needles (e.g. electrolysis);
    - Cleaning of appliances & equipment, e.g. tweezers;
    - Single use dyes, pigments and solutions to be used;
    - Reusable equipment – to be cleaned/disinfected/sterilised (as relevant and as per code requirements).
  - Special requirements: Body piercing:
    - Types of jewellery and metals used;
    - Jewellery and articles used must be sterile.
  - Special requirements: Tattooing:
    - Single use items to be used, e.g. petroleum jelly (when dispensed/applied), dyes, inks, and pigments;
    - Sterile disposable single use needles must be used;
    - Reusable equipment to be cleaned/disinfected/sterilised as per code requirements.

### 6.6A Discussion of Western Australia's framework

The selection and management of appliances being categorised into non-critical, semi-critical and critical (in relation to cleaning, disinfection and sterilisation being required), is an example of applying a risk-based approach within the Code of Practice. The categories essentially cover equipment that merely contacts the skin (non-critical) to equipment or articles that may come into contact with mucous or blood/bodily fluids (semi-critical), up to those articles or pieces of equipment that will actually penetrate the skin (critical).

As the risk within the categories increases towards critical, the level of cleaning increases to including disinfection and ultimately sterilisation, which is required for anything that penetrates the skin – that article must be sterile.

Overall, requirements of the Code of Practice consider most elements: people, places, and equipment. Specific details around aftercare advice, especially written aftercare advice seem to be lacking, as do client consent forms with (as for most states in Australia) details of who the client was and the date of treatment seeming to be the focus of the information gathered/recorded, as opposed to any health risks of that client (e.g. medications taken, known medical concerns) that may affect their chosen procedure, or any other aspect that the person applying the procedure may need to know.

### 6.7 Summary of Australian legislation and comparison against New Zealand bylaws

Across the six states of Australia, there is some form of Public Health Act in effect, which parallels New Zealand's approach with the Health Act 1956. Then, underneath each Act fall either regulations or guidelines (made and enforceable under their respective Act, therefore working in the same respect as regulations) alongside other supplementary Acts around specific matters such as tattooing. Local government, via council-based Environmental Health Officers (EHOs) administer, monitor, and enforce the provisions across all states, with generally registrations/licences being required for most appearance Industry activities, and regular (usually annual) inspections occurring for such businesses.

Across all states, another commonality is the exemptions or omissions of health practitioners offering health services. This is concordant with the current bylaw-based approach within New Zealand and would also be consistent with national regulations drawn up under the Health Act 1956. By contrast, if New Zealand took the approach of incorporating these industries under the Health Practitioners Competence Assurance Act 2003, this would not be in keeping with the approach seen across Australia.

Some interesting observations are made when comparing the approaches and different legislation across Australia. Three states—New South Wales, Queensland, and South Australia—all have specific legislation around tattooing with regard to criminal affiliations. Such provisions are often linked with police enforcement powers and are not based on the health aspects (hygiene nor infection control elements of tattooing) at all.

South Australia is the sole state to introduce a Hazard Analysis Critical Control Point (HACCP) plan requirement, which is now the most common basis of food safety programmes worldwide and underpins New Zealand's Food Act 2014. This risk-based approach is, in the opinion of the authors, a positive step towards essentially having operators create a risk management plan and really think about the services they offer, and how they can do so safely, minimising risk and possible infection-spread.

Western Australia is the only state to outline three categories of risk (in relation to cleaning, disinfecting, and sterilisation): critical, semi-critical, and non-critical. This is another example of risk-

based thinking, with the more critical the classification (for said equipment), the higher expectations and requirements there are for cleaning, disinfecting, and sterilising said item(s). Whilst common sense would say the articles/items that pierce skin need the most attention (and absolute sterilisation to occur), this classification system formalises this and builds a framework, that will inform operators and hopefully have them adhere to, by outlining minimum expectations for such items/equipment, in order to minimise infection spread.

Tasmania and Queensland both mention staff training elements within their frameworks, with Queensland requiring operators to have an Infection Control Certificate. Tasmania by comparison mentions all staff should be 'adequately trained' but give no indication as to how staff should be trained or what acceptable training might look like. The Infection Control Certificate is akin to a blood-borne pathogen training course, which is a positive step and something current bylaws within New Zealand should consider introducing in the absence of any national framework yet being introduced that may cover this.

Tasmania is also the only state to mention biological testing for steam sterilisers (autoclaves), which involves test strips containing resistant spores included in each autoclave cycle, which change colour to demonstrate that sterilisation has been achieved. This requirement, though it takes effect only after installation, servicing, or repairs, is still a step towards validation of sterilisation equipment, which puts the onus on operators to prove the processes they are following work. Again, it would be positive to see more of this within New Zealand, noting that only a few of the current New Zealand bylaws currently cover this.

Mobile trading provisions are only mentioned in two states: Tasmania, and Victoria. Tasmania does not allow any mobile trading for skin penetration industries at all, where Victoria will allow mobile trading for lower risk services (most of which are beauty therapy processes). All other states are silent on mobile trading. The model New Zealand bylaw outlined later within this report, Dunedin City Council's bylaw, covers fixed premises, mobile, itinerant, and temporary trading (such as stalls, expos, etc) activities, which is quite progressive compared to the Australian examples.

One final area that seems to be lacking across Australia, even when compared to the current New Zealand bylaws, is the requirement for formal (written) aftercare advice and having client consent forms based around gathering health information and consent for each service offered. Information is required about clients across most Australian states, more so however, to track (usually) tattooing processes – who tattooed who, when, where, etc. Such information is not focused on knowing any health conditions of the client that may affect the operators, or even compromise the client's ability to receive the appearance service in question initially. In that respect, New Zealand is ahead of Australia, and should without doubt continue to require aftercare and detailed client consent information be gathered.

## 7.0 New Zealand Model Bylaw Example: Dunedin City Council

Dunedin City Council's Beauty Therapists, Tattooists and Skin Piercers Bylaw was originally introduced/came into effect on 1 July 2005, and was last revised with the current version coming into effect on 1 August 2016. A copy of the bylaw is provided in Appendix 2.

This bylaw covers the second largest population of all current bylaws of its kind within New Zealand, second only to Auckland's bylaw. Approximately 130,000 people live within the wider Dunedin City boundary, with approximately 89 registered operators falling under the current bylaw.

### 7.1 Style of bylaw: outcome-focused

Dunedin's bylaw follows an outcome-focused approach in terms of how the bylaw is written. It is one of eight bylaws currently within New Zealand that follows this format, compared to six other bylaws which follow a Code of Practice approach, Auckland being the biggest example of this.

Codes of Practice under bylaws tend to be more prescriptive and elaborate, not only in length but in details, almost reading as a 'how to' guide for many treatments and services the bylaw(s) cover. As Codes can be prescriptive, there is no room for variance in terms of compliance, strictly speaking. An example of this would be requirements for glass bead sterilisers to run at 250°C for a minimum of 4- or 5-minute cycles. Is it realistic that a premises owns a thermometer, let alone one capable of measuring 250°C? Cycle times for processing equipment are also usually pre-set at approximately 15-20 second cycles. It is therefore impossible for an operator to ever comply with such requirements unless equipment is processed at least 12 times.

An outcome focused approach would read that operators must use the glass bead steriliser (or piece of equipment) as per manufacturer's instructions, which allows for the focus to be on the outcome of cleaning, disinfecting or sterilising equipment (how the health risk is mitigated) as opposed to the focus being on the path taken to reach that endpoint.

An outcome-focused bylaw, is more akin to other modernised legislation such as The Food Act 2014 (and subsequent Food Regulations 2015 under the Act) which are outcomes focused, using a risk assessment-based approach and focusing on how (health) risks can be managed as opposed to directly how processes should be performed.

As an outcome-focused bylaw, Dunedin's bylaw has been the inspiration for other bylaws that have followed it, therefore this bylaw is seen as the model example for the purposes of this report.

### 7.2 Bylaw inclusions and possible areas for future improvement

Dunedin's bylaw has many benefits, including being broad enough in its definitions of what processes and practices fall under the bylaw, which essentially fall under one of three key definitions: What is a Beauty Therapist, Tattooist, or Skin Piercer.

The definitions give examples, without being worded as an exhaustive list, which enables future processes and other practices such as body modification processes to be included under the bylaw, which 'future-proofs' the bylaw.

A consideration for any other bylaw or national framework introduced, is to ensure that definitions are broad enough (as to what is included or needing to be registered/regulated under said legislation),

as these industries are fast-paced and evolving all the time. This is apparent by the emerging trends seen in the body modification space, which include but are not limited to implants, branding, scarification, and the introduction of new technology which enhances, and changes already established practices.

Dunedin's bylaw also specifically covers other forms of trading, which is reflective of the modern world: itinerant trading, mobile trading, and temporary trading provisions to cover for example festivals, stalls, and the like. Not all bylaws within New Zealand currently cover these alternatives to fixed premises types of trading. As the focus is on managing health risks, the physical premises, though covered within the bylaw in terms of basic requirements and expectations, can be adapted to a mobile or itinerant trading example with the focus being on operator conduct, hygiene and equipment sterilisation and separation processes.

Possible areas Dunedin's bylaw could be strengthened are increasing expectations and requirements around training and competencies. This is a challenging area however, as there are many industry and other qualifications/courses available on a range of topics under the broader 'Appearance Industries' umbrella, most of which relate to beauty therapy practices. Dunedin's approach seems to be that 'some training is better than no training', which would mean that an operator attending an online or short duration course run by industry, or equipment providers would make them 'trained' to undertake certain practices. Therefore, actual competence is not directly addressed, though this can be quite subjective to assess fully and consistently.

Compared to other bylaws currently in existence, Dunedin does require more in terms of its current wording towards training than most other bylaws. A recommendation for future consideration would be to require any practice where skin is pierced, to have operators undertake a blood-borne pathogen training course, many of which are available for minimal costs online. The purpose and benefit of this training is to inform people of the main transmission routes and causes of blood-borne viruses and pathogen transference, to heighten awareness amongst operators and reaffirm the need for minimum standards and having sufficient processes in place for cleaning, disinfecting and sterilisation of equipment and good personal hygiene practices.

In relation to the testing and validation of sterilisation equipment, a further recommendation would be to introduce biological indicator (spore) testing for autoclave/sterilisation units, which is required at a higher level (such as sterilisation services within hospital settings). Spore testing validates not just that the equipment performs properly in terms of achieving the correct temperature, pressure, and time for each (sterilisation) cycle, but proves that spores can be destroyed during processing – hence making the items within the autoclave chamber truly sterile.

### 7.3 Dunedin's bylaw compared to Australian and United Kingdom legislation

A model bylaw (byelaw) has been produced for use within the United Kingdom under The Local Government (Miscellaneous Provisions) Act 1982, with many territorial authorities adopting this. The model bylaw covers general provisions relating to premises fittings and cleanliness, the cleaning, disinfection, and sterilisation of equipment, having suitable facilities for conducting such procedures, general conduct and personal hygiene considerations and requirements, and ensuring consent is gained for such procedures undertaken.

Across the six Australian states considered as part of this report, the general consensus is a risk-based approach, focusing on the higher risk activities of skin penetration. All states seem to recognise the importance of sterilisation procedures, and though not directly required in most cases, a sound base

knowledge of operators within these skin penetration industries to understand the risks and clean, disinfect, and sterilise equipment and surfaces appropriately to minimise the spread of infection.

Though each state has a slightly different approach to how their legislative frameworks are written and enforced, it is clear that these industries are being pushed to be more professional and accountable – not just moving away from possible criminal activity or connections to criminal organisations, but in respecting age limits and providing at time lengthy detail into how sterilisation practices in particular should be undertaken.

The UK has a larger population and more local councils jurisdictions than New Zealand; in that context, having a model bylaw which can be adopted practically may make more sense. Given the size of New Zealand however, having a model bylaw seems redundant, when instead national regulations could be introduced (therefore replacing the current 14 bylaws in existence). A national regulation would also be the most efficient approach to extending coverage to the 50 percent of New Zealanders not yet covered by a bylaw, avoiding further cost and duplication, and (ideally) superseding older prescriptive approaches with a single flexible outcomes-based system.

Dunedin's bylaw, though more concise in comparison to the Australia framework, is quite similar to the UK Model bylaw example. An outcomes-focused bylaw or set of regulations, does not need to be lengthy – it is a document that sets out the legislative requirements, put in place to protect and promote public health. The educational approach generally seen through guidance documents is lengthier, and in the opinion of the authors, written so to educate the operators in the absence (generally) of formal training being required.

Dunedin's bylaw already requires some form of training. This bylaw is due to undergo review later 2024 and into 2025, so there is an opportunity to explore further details around training and competency at the very least. This will be subject to public consultation to establish the best fit for Dunedin City as a whole, but any changes made to this bylaw within the next 12 or so months should be of great use to policy makers moving forward should they consider adopting or using the Dunedin bylaw as the basis for possible national regulations.

## 8.0 Summary, policy options, and recommendations

### 8.1 Summary

From the review of UK and Australia legislative frameworks regarding the appearance industries, it is clear that some form of Public Health Act with appropriate regulations (or similar) sitting underneath said Act, is how the appearance industries are regulated overseas.

There appears to be a long-term baseline of **more-than-minor** to **serious** adverse outcomes attributed from these industries. This baseline appears to be increasing as was evidenced within the Current Regulatory State of the Appearance Industries report's analysis of ACC data and number of health claims made, which continues to grow year on year.<sup>7</sup>

This baseline has not been, and is not being, adequately managed through relying on local authority bylaws. There are inconsistent rules between local authority areas, inadequate public health protection, and incomplete coverage (with only half the population at best being geographically located where a bylaw is currently in effect).

Comparable overseas jurisdictions have long regulated these areas under their own public health legislation as evident by a review within this report of UK and Australian based legal frameworks to give a comparison.

Health Practitioners and Health Services have been defined across both UK and Australian framework and like New Zealand, all appear to incorporate medical, clinical based professions – none of which are the appearance industries in question of beauty therapy, tattooing and skin/body piercing. There will be exceptions to this, for example medical tattooing performed by a suitably qualified medical professional, however in this context the services provided are generally being administered within a clinical setting (*ie.* a hospital or similar) anyway, therefore the current exemptions make sense.

The risk analysis conducted for processes, practices and the environment in which appearance industries are undertaken (Section 2), shows there is a need to address regulating these industries within New Zealand sooner rather than later. The risk of infection and disease spread is deemed high overall, especially when considering any process that pierces or penetrates the skin.

New Zealand currently has 14 bylaws in existence, all of which are slightly different in their style and overall approach (for example being either outcomes focused or using a code of practice approach). The prescriptive nature of a code of practice can be difficult to enforce, and in the authors opinion, is better suited for industry to drive and create for their members, as opposed to forming part of legislative framework.

Therefore, an outcomes focused approach is recommended with Dunedin City Council's current bylaw being used within this report as a model example. Dunedin's bylaw could be further developed and amended to form the draft regulations for the appearance industries, followed by a period of public consultation and parliamentary process to have such regulations introduced under The Health Act 1956.

## 8.2 Policy options

Briefly, the policy options in this area are as follows:

1. *Status quo*: a patchwork of territorial authority bylaws:
  - a. With no further national guidance; or
  - b. With improved national direction.
  
2. Nationally consistent outcomes-focused legislation:
  - a. Through substantive amendments to the HPCAA 2003; or
  - b. Through regulations drawn up under the Health Act 1956

Of the *status quo* (bylaw) options, option 1b is the more desirable. Rather than relying on the enthusiasm or availability of connected local council staff, national direction of some form would provide an external signal and impetus for councils to improve their current approach, either by introducing a bylaw where none currently exists, or by improving older prescriptive bylaws with a more flexible outcomes-focused bylaw. Work in this area might involve reviewing current bylaws with an aim of identifying what has worked well and where gaps still exist, whilst explaining and offering a minimum and recommended set of best-practice provisions, and achieving greater consistency.

Under option 2, the authors consider that 2a, modification of the HPCAA 2003, would be *possible but difficult*, because most appearance industry procedures are not health services. This approach of amending a primary Act would also be *difficult to justify* because option 2b, development of secondary legislation drawn up under the Health Act 1956, already exists as the default mechanism, and has indeed already been used for this intended purpose with the introduction of the Health (Hairdressers) Regulations 1980.

## 8.3 Recommended path forward

Based on the findings of this work, the authors recommend proceeding with policy option 2b. We recommend that Government initiate a Ministry of Health work programme to explore development of nationally consistent regulations, introduced under The Health Act 1956, for the protection of public health in the appearance industries. An existing model bylaw, such as Dunedin City Council's, could be used to form the basis of what national regulations could look like.

If that approach is not possible, our next best recommended path forward is option 1b, which would involve an improved and nationally-facilitated form of the current bylaw system. Under this route, we would see councils with a current bylaw review other bylaws currently in existence with an aim of identifying what has worked well and where gaps still exist, whilst explaining and offering a minimum and recommended set of best-practice provisions, and achieving greater consistency.

Based upon the findings of this work, the authors do not recommend option 1a (pure *status quo*), because that would leave current problems unaddressed; and we do not recommend option 2a, because we do not consider that any of the appearance industries fall under The Health Practitioner Competence Assurance Act 2003. This Act is clearly more medically-focused, much like similar pieces of legislation in the UK and Australia.



## Appendix A: Provisions of the Health Practitioners Competence Assurance Act 2003

### Establishing Authorities

An authority under the HPCAA is essentially a body corporate appointed, by or under this Act, as the body that is, in accordance with the Act, responsible for the registration and oversight of practitioners of a particular health profession.

Within even the above definition, key words to consider again in relation the appearance industries are whether these industries are 'practitioners' or 'health professions'. Some beauty therapists may argue they are practitioners; however generally speaking skin piercers and tattooists would not class themselves as being practitioners, let alone in a health context, or being within the health profession. Instead, they might refer to themselves being within the appearance, skin penetration or body art professions which are potentially more akin to the services they provide their clients.

Section 11 of the HPCAA, empowers authorities to specify scopes of practice (for their said profession). Scopes of practice in summary generally should include:

- Tasks commonly performed by the profession;
- Reference to illnesses, conditions to be diagnosed, treated or managed;
- Specify (in relation to the profession) an area of science or learning.

Authorities will also define which practitioners are permitted to perform certain services under the defined scope, with conditions being able to be imposed on any practitioner to limit them in the services they can undertake/perform. There is a required standard of competence that needs to be decided by the authority in relation to practitioners under the defined scope of practice as well.

Competence can be addressed by the authority having to, by notice, prescribe the qualifications of every scope of practice (as described and required under section 11 of the Act). Qualifications could include:

- A degree or diploma from an authority accredited institution (within New Zealand or overseas);
- The successful completion of a degree, course of studies, or programme accredited by the authority;
- A pass in a specified examination or assessment set by the authority or another organisation approved by the authority;
- Registration with an overseas organisation (akin to the New Zealand based authority);
- Experience at a nominated institution or class of institution, or under supervision of a nominated health practitioner or class thereof of health practitioner.

Authorities must monitor New Zealand based education institutions they accredit and may monitor international ones as well. In addition, the authority can revoke educational institute's accreditation at any time.

It is important to note, as per section 13 of the Act, that qualifications set by an authority cannot unnecessarily restrict the registration of persons as health practitioners, nor impose undue costs on health practitioners nor the public. Any qualifications set by an authority must be necessary to protect members of the public.

Possible barriers besides undue costs of obtaining suitable qualifications, assuming they exist, also include the criteria outlined in section 16 of the Act where a practitioner needs to be deemed 'fit to register' and be recognised as a practitioner under the Act at all. 'Fit to register' includes provisions around not only meeting the specified qualifications and competencies required, but also having a certain level of English and a level of review regarding any possible convictions that person may have. Registration forms and prescribed fees (set by the authority for their profession(s)) will also need to be met, as is the need for obtaining an annual practicing certificate, which again could be subject to examination, or an assessment being imposed by the authority.

For medical professions these 'hoops' to jump through, though possibly perceived as lengthy, are also widely regarded as necessary. Medical procedures, however, tend to carry a higher degree of risk in all respects, and in general terms a much higher degree of training and qualifications needing to be obtained, met, and continually upheld. Comparing the appearance industries to medical professions in this regard, is not intended to lessen the importance of having suitably qualified persons undertaking appearance industry procedures or services; however, there is a scale of invasiveness and risk that needs to be considered, in the context of medical procedures versus non-medical or borderline medical (quasi-medical) procedures at times, at best.

The requirements for registration and obtaining an annual practicing certificate for many less invasive procedures/services that would be included under the appearance industries definitions, could be costly, burdensome, and difficult for workers within these industries to achieve.

Given the majority, if not possibly all such services/procedures offered under the appearance industries are not medical in nature, then perhaps other means of introducing minimum standards which would include minimum requirements/standards competency and qualifications, could be achieved for example by the introduction of stand-alone regulations under The Health Act 1956.

### Conditions for designating health services as health professions

Under section 116 of the HPCAA, the Health Minister must before recommending health services of a particular kind as a health profession, be satisfied that:

- a) i) The provision of health services concerned poses a risk of harm to the public; or
- ii) That it is otherwise in the public interest that the provision of health services be regulated as a profession under this Act.

In reading section 116 a) as above, immediately incorporating the appearance industries under the HPCAA may seem logical. Data and anecdotal evidence suggest these industries do pose health risks, and there is a strong argument and belief that these industries need regulating in some way. To be regulated under this Act specifically, however, is the question to consider.

Section 116 continues at subsection b), summarised below saying:

- b) Providers of said health services concerned are generally agreed on:
  - i) The qualifications for any class or classes of providers of those health services; and
  - ii) The standards that any class or classes of providers of those health services are expected to meet; and
  - iii) The competencies for scopes of practices for those health services have been developed/defined.

To satisfy all three subparts of subsection b) above is where difficulties may be presented. For beauty therapy, more qualifications are available than for skin piercing or tattooing. Besides courses or

qualifications on basic infection control such as bloodborne pathogen training (generally conducted online from a variety of global sources), or a short course in sterilisation technology, no qualifications exist to become skin piercer or tattooist. Such artists learn by observing, undertaking apprenticeships, and essentially doing the trade and gaining experience over time. Therefore, to introduce qualifications expected for these industries is difficult.

Standards that would have to be met could be set, assuming these would be along the lines of minimum standards for the physical environment, hygiene measures, cleaning, disinfecting and sterilisation procedures and the like. Arguably, current bylaws for these industries already attempt to provide standards, as do guidance documents such as the Ministry of Health Guidelines for Safe Piercing of Skin 1998. Standards therefore could be achieved if appropriately drafted.

Ongoing measures of competency again, becomes tricky for skin piercers and tattooists. Beauty therapy tends to have a larger presence by way of national professional industry groups and organisations, many of whom actively develop and implement (on a voluntary basis) codes of practice for members to adhere to, training courses and professional development opportunities for continual upskilling within the industry.

A large amount of work would be required to form the appropriate authority under the HPCAA to develop not only the scopes of practices for all appearance industries, which even as stand-alone industries have numerous treatments and services on offer, but to introduce standards and levels of competencies expected, let alone monitor, assess, and enforce such introduced standards or competencies are continually met.

From a legal perspective the fundamental definition of what a health practitioner is would need to be reviewed or create a whole new category of people who are not health practitioners but get involved with appearance industry trades, which would then also require a separate set of rules or regulations. In this case, it would be simpler and make more sense in the authors opinions to have a separate regulations.

Whilst not impossible, the scope of procedures and services offered, particularly under the beauty therapy umbrella, increases the scope of this work which again, isn't necessarily in keeping with other industries and professions currently under the HPCAA, nearly if not all of which, are medical based. The easiest way the authors can distinguish between those covered by the HPCAA or not, is that those practitioners under HPCAA see patients. Appearance industry operators see consumers or clients. Patients has a medical connotation, whereas consumers or clients do not.

So, whilst the conditions for designating certain health services as health professions can be undertaken as per section 116 of the HPCAA, the question is raised whether all criteria within section 116 can be met, or if that criterion is even appropriate for these industries at all.

## **17 Beauty Therapists, Tattooists and Skin Piercers**

17.1	FORMER BYLAW REVOKED .....	2
17.2	SHORT TITLE .....	2
17.3	COMMENCEMENT .....	2
17.4	APPLICATION OF BYLAW .....	2
17.5	PURPOSE .....	2
17.6	INTERPRETATION .....	2
17.7	REGISTRATION AND LICENSING .....	3
17.8	GENERAL CONDITIONS OF OPERATION .....	4
17.9	RECORDS .....	5
17.10	PHYSICAL ASPECTS OF DESIGNATED AND MOBILE PREMISES .....	5
17.11	MOBILE PREMISES .....	6
17.12	ITINERANT LICENCE HOLDERS .....	6
17.13	CONDUCT .....	7
17.14	TATTOOING AND SKIN PIERCING .....	7
17.15	BEAUTY THERAPY .....	8
17.16	STERILISATION, DISINFECTION AND CLEANING .....	8
17.17	CLEANSING AND REPAIR .....	9
17.18	EXEMPTION .....	9
17.19	APPEALS .....	9
17.20	OFFENCES AND PENALTIES .....	10
17.21	SAVINGS .....	10

# **Beauty Therapists, Tattooists and Skin Piercers**

Approved by Council: 16 May 2005  
Date of Effect: 1 July 2005

Amendment Approved by Council: 27 June 2016  
Date of Effect: 1 August 2016

# **17**

## **PART 17: BEAUTY THERAPISTS, TATTOOISTS AND SKIN PIERCERS**

### **17.1 FORMER BYLAW REVOKED**

17.1.1 The Beauticians, Tattooists and Skin Piercers Bylaw 2005 is revoked.

### **17.2 SHORT TITLE**

17.2.1 The short title of this bylaw shall be the Beauty Therapists, Tattooists and Skin Piercers Bylaw 2016.

### **17.3 COMMENCEMENT**

17.3.1 This bylaw shall commence on 1 August 2016

### **17.4 APPLICATION OF BYLAW**

17.4.1 The provisions of this bylaw do not apply to:

- (a) Any Health Practitioner registered under The Health Practitioners Competence Assurance Act 2003 or subsequent Act; or
- (b) A person acting under the direction or supervision of any such Health Practitioner (including medical practitioner, nurse, physiotherapist, podiatrist or dentist), where the purpose is the practice of medicine, physiotherapy, podiatry, nursing or dentistry, respectively; or
- (c) A situation where an Authorised Officer is satisfied that compliance with any requirements of this bylaw would be impractical or unreasonable, having regard to the premises in question, or the prescribed process being undertaken. In this instance a written exemption may be granted with such modifications, and subject to such conditions as are in the interests of public health as may be desirable in the circumstances.

### **17.5 PURPOSE**

17.5.1 The purpose of this bylaw is to prevent the transfer of communicable diseases such as Hepatitis B and C, HIV/AIDS and bacterial skin infections via beauty therapy, tattooing and skin piercing practices.

17.5.2 This bylaw requires that any person undertaking beauty therapy, tattooing and skin piercing processes is registered, and conducts such activities that comply with all requirements outlined in this bylaw.

### **17.6 INTERPRETATION**

17.6.1 In this bylaw, unless the context otherwise requires:

**Authorised Officer** – means any person employed and warranted by the Dunedin City Council.

**Beauty Therapy** – means any process in the treatment of skin and body to enhance beauty and includes (but is not limited to) permanent make-up, exfoliation, waxing and hair removal, pedicures, manicures, tinting, and extractions.

**Communicable Disease** – means any infectious disease such as Hepatitis B and C, HIV/AIDS and any other disease declared by the Governor General, by order in Council, to be a communicable disease for the purpose of the Health Act 1956 or subsequent Act.

**Contravene** – includes failure to comply with.

**Designated Premises** – includes any commercial, industrial, residential property, or community building where a Prescribed Process is carried out and for which payment is received.

**Itinerant Licence Holder** – means any person undertaking a prescribed Beauty Therapy process undertaken in an approved manner in the absence of a Designated, Mobile or Temporary Premises and for which payment is received.

**Licensee** – means the person or legal entity to whom a Mobile Licence, Trading Licence or Certificate of Registration has been issued to under this bylaw in respect to a Prescribed Process.

**Medical Waste** – refers to the disposal of any needle or other article contaminated by blood, tissue or other bodily fluid in an approved manner such as a sharps container or biohazard waste receptacle.

**Mobile Licence** – means a licence obtained under 17.7 (9).

**Mobile Premises** – means any vehicle, stall or unit whether self-propelled or not, from which a prescribed Beauty Therapy, Tattooing or Skin Piercing process is carried out and for which payment is received.

**Operator** – means any Licensee and/or any staff member who performs a Prescribed Process.

**Premises** – means as the context requires Designated Premises, Mobile Premises or Temporary Premises.

**Prescribed Process** – means any Beauty Therapy, Tattooing or Skin Piercing processes for which payment is received.

**Readily Accessible** – refers to the location of any fixture, equipment, instrument or utensil so that it can be accessed quickly, practically and without any action likely to pose a risk to any person.

**Tattooing and Skin Piercing** – means any Prescribed Process involving the intentional piercing, cutting, puncturing or practice of making indelible marks in human skin or tissue for the purpose of inserting jewellery, pigments, ink or dyes into the skin or other part of the human body. Tattooing and Skin Piercing includes traditional tool and cultural tattooing and skin piercing procedures.

**Temporary Premises** – means a place where any Prescribed Process covered by this bylaw is undertaken intermittently such as an event, demonstration or festival.

**Trading Licence** – means a licence obtained under 17.7 (9).

## **17.7 REGISTRATION AND LICENSING**

17.7.1 No person may operate as a Beauty Therapist, Tattooist or Skin Piercer without holding a current Certificate of Registration or Mobile Licence or Trading Licence.

- 17.7.2 No person is permitted to operate under an expired Certificate of Registration or Mobile Licence or Trading Licence.
- 17.7.3 No person may use any Premises unless, as the context requires, the Premises comply with this bylaw, or an exemption in accordance with section 17.19 of this bylaw has been granted.
- 17.7.4 The Certificate of Registration must be prominently displayed at the principal entrance to the Premises to which the Prescribed Process relates.
- 17.7.5 An operator must obtain a Trading Licence to conduct a Prescribed Process in the absence of any Designated Premises.
- 17.7.6 An operator must obtain a Mobile Licence to conduct a Prescribed Process at Mobile Premises.
- 17.7.7 An operator must obtain a Trading Licence to conduct a Prescribed Process at Temporary Premises.
- 17.7.8 All operators must comply with the conditions of any licence or Certificate of Registration and requirements within this bylaw unless a written exemption is obtained.
- 17.7.9 Applications for any licence or Certificate of Registration under this bylaw shall be made by the owner or manager and shall be made on the prescribed form.
- 17.7.10 A licence or Certificate of Registration is effective from the date of issue, up to and including the date of expiry.
- 17.7.11 The holder of a Mobile Licence or Trading Licence must carry a copy of their current licence with them at all times.
- 17.7.12 Fees (as set by Council annually) shall be payable on application for registration and renewed thereafter on an annual basis in accordance with this bylaw for a term of no more than one year.

## **17.8 GENERAL CONDITIONS OF OPERATION**

- 17.8.1 No person may carry out any Prescribed Process on any person under the age of 16 years without the written permission of that person's parent or legal guardian.
- 17.8.2 No person may carry out any Prescribed Process on any person whom they suspect is under the influence of alcohol, drugs or mind altering substances.
- 17.8.3 No person may smoke on the Premises.
- 17.8.4 No person who knows or suspects that he or she is suffering from or is a carrier of a skin infection or Communicable Disease, or associated conditions, shall carry out any Prescribed Process without taking adequate precautions to prevent the transmission of such infection, disease or condition.
- 17.8.5 No animals, except registered disability assist dogs, are to be permitted on the Premises.
- 17.8.6 An Operator must ensure that where recognised qualifications are available, the Operator and all employees have obtained a qualification applicable to the Prescribed Processes being undertaken by the employee.

- 17.8.7 An employee must work under the direct supervision of a suitably qualified person and be working towards obtaining a recognised qualification if a recognised qualification has not been obtained.

**(Explanatory Note:** Recognised Training may include a national or international recognised training standard, NZQA unit standard or industry training organisation qualification.)

## **17.9 RECORDS**

- 17.9.1 Prior to the commencement of any Prescribed Process every Operator is required to obtain the following client information in written form:
- Client name, address and contact details.
  - Client date of birth.
  - Acknowledgement of any potential risks associated with the Prescribed Process to be administered.
  - Client consent for the Prescribed Process to be administered.
  - Client health information including (but not limited to):
    - Any medication taken which may affect the Prescribed Process.
    - Any known blood or bleeding disorder or blood thinning medication taken
    - Any medical history of known allergies or adverse reactions.
    - Any medical history in relation to communicable or infectious diseases.
- 17.9.2 The Licensee must hold client records regarding such information on site and ensure that information is updated after every visit. These records must be made accessible to Authorised Officers on request.
- 17.9.3 The Licensee must provide documented evidence of the regular servicing of all equipment used for sterilisation such as an autoclave, UV cabinet or glass bead steriliser. Such records must be kept for a minimum period of 12 months. The records shall be made available to an Authorised Officer on request.
- 17.9.4 A record of medical waste disposal must be kept for a minimum period of 12 months. The records shall be made available to an Authorised Officer on request.

## **17.10 PHYSICAL ASPECTS OF DESIGNATED AND MOBILE PREMISES**

- 17.10.1 No person shall use, or allow any Premises to be used for any Prescribed Process except in accordance with all of the following provisions:
- (1) Any new premises shall be constructed in accordance with the Building Act 2004 or subsequent Act.
  - (2) The premises shall be maintained in a state of good repair and in a clean and tidy condition.
  - (3) The floors, walls, ceiling, fixtures and fittings in any area connected with the carrying out of any Prescribed Process shall be constructed of materials that are continuously smooth, impervious and easily cleaned.



- (4) A wash hand basin supplied with a constant piped supply of hot and cold water, soap, a nail brush and approved hand drying facilities shall be provided in a Readily Accessible Position associated with any Prescribed Process.
- (5) A sink supplied with a constant piped supply of hot and cold water, shall be provided in a Readily Accessible Position for the sole purpose of cleaning instruments and equipment associated with any Prescribed Process.
- (6) All parts of the Premises shall be ventilated.
- (7) All parts of the Premises shall be provided with lighting to facilitate cleaning and inspection.
- (8) There shall be provision for separate storage of chemicals, cleaning equipment and products associated with any Prescribed Process when not in use.
- (9) Hazardous chemicals must be stored in accordance with The Hazardous Substances and New Organisms Act 1996 or subsequent Act.
- (10) Covered waste receptacles that are constructed of a readily cleanable material shall be provided.
- (11) All mattresses, squabs and cushions used on any chair, bed, table or the like, used in conjunction with the carrying out of any Prescribed Process, shall be covered in an impervious and readily cleanable material. All linen/paper must be replaced after each client.
- (12) Separate storage shall be provided for clean and soiled laundry. All laundry must be either commercially cleaned or otherwise rendered hygienic.
- (13) Where refreshments are served to customers, single use utensils are to be used unless dishwashing facilities are supplied.

#### **17.11 MOBILE PREMISES**

- 17.11.1 All Licensees operating from a Mobile Premises must meet all requirements of Dunedin City's Mobile Trading and Temporary Stall Bylaw 2014 or subsequent bylaw.

#### **17.12 ITINERANT LICENCE HOLDERS**

- 17.12.1 Only operators conducting prescribed Beauty Therapy processes may apply for an Itinerant licence.
- 17.12.2 All Operators carrying out a Prescribed Process with an Itinerant Licence are exempt from section 17.10 of this bylaw.
- 17.12.3 All Itinerant Licence Holders must ensure that they:
  - (a) Provide sufficient facilities to store all clean and used equipment, linen and waste products safely in separate containers before and after use and while in transit.
  - (b) Maintain any work area and protect all surfaces and equipment from contamination by dust, dirt, members of the public in the immediate area or other such contaminants at all times.
  - (c) Have direct access to hand washing facilities with soap, paper towels and hot and cold running water. Alternatively, waterless, alcohol-based antiseptic

hand gels, foams, or liquids can be used by mobile operators only where it is physically impossible to have hand washing facilities with running water.

- (d) Have adequate sterile equipment for all clients undergoing skin penetration procedures and if the Itinerant Licence holder does not have an autoclave or approved steriliser, then single use pre-sterilised equipment is to be used.

### **17.13 CONDUCT**

17.13.1 An operator on a Premises must:

- (a) At all times keep his or her clothing, hands and fingernails clean, and must cover any infected, damaged or inflamed skin with an impermeable dressing.
- (b) Thoroughly clean his or her hands immediately:
- before commencing and after completing the Prescribed Process;
  - after using a toilet;
  - after smoking;
  - after blowing the nose;
  - after handling soiled laundry, money, biological matter or waste materials used or produced in connection with a Prescribed Process.

17.13.2 Ensure that all needles used in any Prescribed Process are single use, pre-sterilised, disposable needles.

17.13.3 Prior to commencing any procedure, cleanse client's skin with a cleansing agent approved by an Authorised Officer and allow to dry. For any Prescribed Process where skin is penetrated, the client's skin must be cleansed using a solution of 70% alcohol (ethyl alcohol or isopropyl).

17.13.4 Provide at the completion of any Prescribed Process, to every client suitably written instructions for the subsequent care of the site to prevent its infection.

17.13.5 Dispose of all blood or tissue contaminated materials used in a Prescribed Process, into a puncture resistant container or otherwise, in an approved manner.

17.13.6 The Licensee must ensure there is a written procedure for the cleaning of any blood or tissue contaminated linen or fixtures held onsite at all times.

17.13.7 No Operator shall undertake any Prescribed Process unless that Operator covers their hands with new, single use gloves for each customer or the Operator washes and sanitises their hands using a waterless alcohol-based cleanser prior to and following the procedure.

17.13.8 Any equipment used must only be operated according to manufacturer specifications and for no other purpose.

### **17.14 TATTOOING AND SKIN PIERCING**

17.14.1 All equipment used for Tattooing or Skin Piercing that is not disposable must be sterilised.

17.14.2 All Jewellery used for piercing must be sterile.

- 17.14.3 Stencils must only be used for one client and then disposed of.
- 17.14.4 The Licensee is responsible for ensuring that all pigments, inks, and dyes used for tattooing are approved under the New Zealand Environmental Protection Agency's Tattoo and Permanent Makeup Substances Group Standard 2011 or meet the relevant standards that apply under legislation from the territory or country from which they are imported.
- 17.14.5 No Operator shall, in tattooing a customer, use any dye, pigment or solution, unless the dye, pigment or solution has been decanted into a container holding sufficient of the liquid for carrying out the tattoo on that customer only.
- 17.14.6 The Operator shall ensure that on completion of the tattoo, any dye, pigment or solution residue is discarded and disposed of to waste, and the container is either sterilised or discarded.

### **17.15 BEAUTY THERAPY**

- 17.15.1 No person shall remove hairs from moles, birthmarks and other abnormalities without medical permission.
- 17.15.2 Any product that has been applied to a client's body (including wax) shall not be reused.
- 17.15.3 All utensils or instruments used for product application must be single use or rendered hygienic between clients.

### **17.16 STERILISATION, DISINFECTION AND CLEANING**

#### **Sterilisation**

- 17.16.1 No equipment used in any Prescribed Process that involves skin penetration shall be reused unless it has been sterilised in one of the following ways:
  - (a) Thoroughly cleansed then exposed to steam under pressure in a steriliser (autoclave) in accordance with manufacturer's instructions. Evidence of the use of chemical indicator strips to demonstrate that the appropriate temperatures have been achieved during the sterilisation cycle must be kept and be made available for inspection for a minimum of 12 months.
  - (b) Evidence of re-processing following a chemical indicator strip fail or load failure must be kept and made available for inspection for a minimum of 12 months.
  - (c) Thoroughly cleansed then totally immersed in a glass bead steriliser according to manufacturer's instructions.
  - (d) Thoroughly cleansed by a method appropriate to the nature of the article concerned and then submitted to a process of sterilisation.
- 17.16.2 The Licensee must provide evidence of regular servicing and calibration (as applicable) of all sterilisation equipment upon request by an Authorised Officer.
- 17.16.3 All disposable needles must be disposed of in an appropriate 'sharps' container for Medical Waste, which in turn must be disposed of in an approved manner.
- 17.16.4 All non-medical waste is to be stored in a covered receptacle and removed from the premises on a regular basis.

### **Disinfection and Cleaning**

- 17.16.5 All equipment, instruments and utensils that are unable to be sterilised must be thoroughly cleaned and then disinfected by a thermal or chemical disinfection procedure in an approved manner.
- 17.16.6 After thorough cleaning, approved solutions for disinfecting include (but are not limited to):
- (a) Ethyl alcohol, isopropyl alcohol or methylated spirits (in each case containing not less than 70% alcohol); or
  - (b) An industrial strength disinfecting solution (such as a chlorine, phenol or Quaternary ammonium cation (QUAT) based solution) used in accordance with manufacturer's instructions.
- 17.16.7 There shall be provided at all times an adequate supply of chemicals used for general cleaning of the Premises and the disinfection of equipment, instruments and utensils.
- 17.16.8 For any chemical used to disinfect, Operators must be able to demonstrate knowledge of chemical dilution rates, application method and contact times.

### **17.17 CLEANSING AND REPAIR**

- 17.17.1 The Licensee must immediately cease operation if customers may be exposed to contamination or communicable disease because of the:
- (a) condition of any Premises or equipment; or
  - (b) procedure or Prescribed Process.
- 17.17.2 The Licensee must on receipt of written instruction signed by an Authorised Officer:
- (a) cleanse, reconstruct or repair the Premises, or equipment or redesign the procedures within the time specified on the written instruction; and
  - (b) immediately cease using the Premises until any such time agreed by the Authorised Officer.

### **17.18 EXEMPTION**

- 17.18.1 Any Operator may apply for an exemption from any requirement in this bylaw where the Operator can demonstrate that any risk to public health is mitigated to the same extent as what is provided for in the bylaw.

### **17.19 APPEALS**

- 17.19.1 Any person who is dissatisfied with the decision or a requirement made by an Authorised Officer may appeal in writing to the Chief Executive within 14 days after being notified in writing of the decision or requirement.
- 17.19.2 On hearing the appeal brought under this bylaw, the Chief Executive may confirm, reverse, or modify the decision or requirement made by the Authorised Officer and the decision of the Chief Executive on the appeal is final.

17.19.3 This right of appeal is in addition to any other statutory right made available to the Licensee.

#### **17.20 OFFENCES AND PENALTIES**

17.20.1 Every person who fails to comply with this bylaw commits an offence and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956 or subsequent Acts.

17.20.2 The continued existence of any work or thing in a state, or the intermittent repetition of any action, that contravenes this bylaw shall be deemed to be a continuing offence.

17.20.3 Every person who commits a breach of this bylaw that is an offence under the Health Act 1956 or subsequent Act is liable to a fine up to \$500 and to a further fine of up to \$50 for every day on which the offence continues.

17.20.4 Every person who commits a breach of this bylaw that is an offence under the Local Government Act 2002 or subsequent Act is liable to a fine up to \$20,000.

#### **17.21 SAVINGS**

17.21.1 Any Certificate of Registration or other licence issued prior to the commencement date of this bylaw continues to be valid until its date of expiry.



New Zealand  
Institute of  
**Environmental  
Health**



THE NEW ZEALAND ASSOCIATION OF

registered beauty professionals

INC.