

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 135.37, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 22, “Practice of Tattooing,” Iowa Administrative Code.

The proposed amendments to Chapter 22 update definitions, update application requirements and fee schedules, clarify general provisions for tattoo artists and tattoo establishments, clarify and update sanitation and infection control provisions, clarify tattoo equipment requirements and tattooing procedures, clarify establishment permit requirements, propose guidelines for guest artists, propose that no new mobile tattoo units will be permitted, clarify inspection and inspector requirements, and clarify enforcement actions. The proposed amendments resulted from discussions held with a tattoo artist stakeholder group.

The following summary further describes the proposed amendments.

The amendments to rule 641—22.2(135) add new definitions and strike and modify existing definitions to clarify the terms used throughout the rules and proposed amendments; no new requirements are added.

The amendments to rule 641—22.3(135) clarify that a person must be at least 18 years of age to receive a tattoo and clarify where tattoo artists can engage in the practice of tattooing and make other clarifications to the existing rule language.

The amendments to rule 641—22.4(135) clarify the existing rule language and specify that the establishment owner shall not allow a non-permitted artist to perform tattooing in the establishment.

The amendments to rule 641—22.5(135) provide further clarification of the type of container that should be used for disposal of sharps in accordance with industry standards. The amendments also add language regarding steam sterilization of tattoo equipment as steam sterilization is a preferred method of sterilizing equipment and results in fewer user errors.

The amendments to rule 641—22.6(135) strike subrules 22.6(10) and 22.6(11) and add the content of those subrules to subrule 22.6(9) and clarify the procedure of tattooing related to the cleaning of tattoo equipment and the prevention of infections.

The amendments to rule 641—22.7(135) add instructions for completing an online application that will be available at the January 1, 2017, renewal cycle and modify the requirements for documentation of medical conditions and criminal convictions to align the requirements with those of other licensing programs. At the recommendation of the tattoo artist stakeholder group, deactivation and reinstatement fees have been added to encourage tattoo artists to renew in a timely manner.

At the recommendation of the tattoo artist stakeholder group, the fees for temporary tattoo establishments are increased from \$50 regardless of size to \$100 for up to 10 artists, \$200 for 11 to 100 artists, and \$300 for more than 100 artists. Temporary tattoo establishment events significantly increase the workload of program staff who must verify that all tattoo artists are properly licensed and are in adequate compliance with appropriate rules. These fees and other fees related to tattooing are included in one fee schedule in new rule 641—22.8(135). A fee for the newly created guest tattoo artist permit is also established and included in the fee schedule. The fee is equal to the fee for a resident tattoo artist permit.

Provisions for the collection and retention of client records currently in rule 641—22.15(135) are reorganized as new subrule 22.9(5) in the rule on tattoo establishment requirements, and a requirement that the establishment submit a floorplan with its application is added in order to assist inspectors during

their inspections of establishments. The tattoo artist stakeholder group also recommended that the rules pertaining to change of ownership and change of establishment location be revised to clarify inspection requirements. The proposed revisions clarify that an inspection will be conducted when there is a change in establishment location to ensure that the establishment meets the requirements of Chapter 22 and that an inspection will be conducted when there is new ownership so that education and guidance can be provided to the new owner.

The amendments to the rule relating to tattoo artist permit requirements clarify existing language and establish qualifications and a special permit for guest tattoo artists at the recommendation of the tattoo artist stakeholder group.

The amendments to the rule on temporary establishment permits clarify what constitutes a temporary establishment and increase the number of calendar days for which a temporary permit can be issued for a temporary establishment from 7 days to 14 days. The amendments also add a requirement that the organizer of a temporary event must submit a list of all participating tattoo artists one week prior to the event; this requirement was added to ensure that all participating artists have current permits.

At the recommendation of the tattoo artist stakeholder group, effective July 1, 2016, no new mobile tattoo units will be permitted. Current licensed mobile tattoo units will be allowed to operate. There are five mobile units licensed in Iowa. It was the opinion of the tattoo artist stakeholder group that although mobile tattoo units are inspected annually, they are not closely monitored during actual events and may present potential public health consequences. The rule setting forth mobile tattoo unit permit requirements is revised to reflect this change. In addition, a requirement that existing mobile tattoo unit owners provide promotional documentation of the event they are attending is added so that the Department can ensure that the event is open to the public.

The rule on inspection requirements is revised to clarify that an inspecting agency must maintain inspection reports for three years.

The amendments to rule 641—22.16(135) clarify existing requirements relating to enforcement, and the amendments to rule 641—22.17(135) provide clarification that the Department can revoke a permit with just cause.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 5, 2016. Such written materials should be directed to Carmily Stone, Chief of Bureau of Environmental Health Services, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or e-mail [carmily.stone@idph.iowa.gov](mailto:carmily.stone@idph.iowa.gov).

Also, there will be a public hearing on April 8, 2016, on the fifth floor of the Lucas State Office Building, Des Moines, Iowa, in Rooms 517 and 518 from 1 to 3 p.m., at which time persons may present their views either orally or in writing. Persons may join the meeting by dialing the toll-free telephone number 1-866-685-1580 and entering code number 0009991863 when prompted. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Persons with disabilities who require assistive services or devices in order to observe or participate should contact the Bureau of Environmental Health Services at (515)242-6337 in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.37.

The following amendments are proposed.

Amend **641—Chapter 22** as follows:

## CHAPTER 22 PRACTICE OF TATTOOING

**641—22.1(135)** No change.

**641—22.2(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

“Aftercare” means written instructions given to a client, specific to the procedures rendered, on care for the tattoo and surrounding area and guidance on when to seek medical treatment.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Disinfectant” means a U.S. Environmental Protection Agency (EPA)-registered antimicrobial product that is applied to surfaces to destroy microorganisms that are living on the surface, with the exception of bacterial spores that demonstrate tuberculocidal activity.

“Guest tattoo artist” means a tattoo artist who resides out of state and will be tattooing in Iowa for no more than 14 consecutive days.

“Imminent health threat” means a condition or conditions that exist in a tattoo establishment and require immediate action to prevent endangering the health of people.

“Impervious” means nonporous, impenetrable, smooth, and washable.

“Inspection agency” means the department or a city, county or district board of health that has executed an agreement with the department pursuant to the authority of a city, county or district board of health to inspect tattoo establishments and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the “local inspection agency.”

“Minor” means a person who is under the age of 18 years.

“Mobile tattoo unit” means a mobile establishment or unit that is self-propelled or otherwise movable from place to place, is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal, and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

“Permanent color technology” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes.

“Residential dwelling” is a place or structure intended to be occupied as a residence.

“Single use” means intended for one-time use and disposed of after use on a client. Single-use products or items include, but are not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves. Cloth towels and linens are not included as “single use” and are prohibited.

“Sterilization” means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores that demonstrate tuberculocidal activity.

“Tattoo artist” means any person, including a permanent color technologist, engaged in the practice of tattooing within the state of Iowa.

“Tattoo establishment” means the building, or portion of the building designated by the owner, or mobile unit where tattooing is practiced.

“Tattooing” means to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs. “Tattooing” includes permanent color technology that is the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes. “Tattooing” does not include applying a tattoo for radiological purposes.

“Tattoo mobile unit” means a mobile establishment or unit which is self-propelled or otherwise movable from place to place, is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal, and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

“Temporary establishment permit” means a permit issued by the department to perform tattoo procedures at a temporary event.

“Temporary event” means any place or premises operating at a fixed location where a tattoo artist performs tattooing procedures for no more than seven 14 days consecutively in conjunction with a single event or celebration to which the general public is invited.

**641—22.3(135) General provisions.**

**22.3(1)** No change.

**22.3(2)** No person shall tattoo ~~a minor~~ any person under the age of 18. Violators shall be guilty of a serious misdemeanor.

**22.3(3)** No ~~tattoo artist~~ person shall engage in the practice of tattooing without first ~~obtaining~~ applying for and receiving a tattoo artist permit from the department.

**22.3(4)** No change.

**22.3(5)** Tattooing shall be practiced only in facilities that have applied for and received a tattoo establishment permit from the department.

**22.3(6)** ~~Tattooing~~ Notwithstanding local zoning codes, where zoning codes exist, tattooing shall not be practiced in a residential dwelling, inclusive of an attached garage, pursuant to local zoning codes. Beginning January 1, 2010, all new tattoo establishments must be in a building that is zoned commercial where zoning ordinances exist. A waiver shall be granted to any tattoo establishment which is in a residential dwelling and which has been operating continuously since being granted a permit prior to January 1, 2010.

**22.3(7)** No change.

**641—22.4(135) Sanitation and infection control.**

**22.4(1)** Tables, chairs, and other general-use equipment in the tattoo area shall be constructed of impervious ~~or~~ smooth and easily cleanable material.

**22.4(2)** A sink for hand washing supplied with potable hot and cold running water under pressure to a mixing-type faucet shall be ~~available~~ easily accessible in the tattooing area. Hand-washing facilities shall be supplied with liquid soap and single-use ~~paper~~ towels or hand dryer.

**22.4(3)** ~~Toilet~~ Easily accessible toilet facilities with a sink for hand washing must be available for employee use and patron use.

**22.4(4)** The tattoo establishment shall have an area of ~~not less than~~ at least 300 square feet and shall be adequately lighted and ventilated.

**22.4(5)** Floors in the ~~immediate area where the tattoo procedure is to be performed~~ tattoo area shall be finished with an impervious, smooth, washable surface.

**22.4(6) and 22.4(7)** No change.

**22.4(8)** Closed cabinets or containers shall be exclusively used for the ~~exclusive~~ storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.

**22.4(9)** The following prohibitions apply to tattoo establishments:

a. No change.

b. Consumption of food or drink shall not be allowed in ~~any area where the actual tattoo area procedure is being performed~~.

c. The owner or tattoo artist must not use, consume or serve intoxicating beverages or controlled substances on the establishment's premises ~~during the hours the establishment is open to the public or while any procedure is being performed~~.

d. The owner or tattoo artist must not allow any other person to use, consume, or serve intoxicating beverages or controlled substances on the establishment's premises ~~during the hours the establishment is open to the public or while any procedure is being performed~~.

e. The owner or tattoo artist shall not in any manner possess or distribute or allow any other person to possess or distribute intoxicating beverages or controlled substances on the establishment's premises ~~during the hours the establishment is open to the public or while any procedure is being performed~~.

f. The tattoo establishment owner shall not allow a tattoo artist who is not currently permitted in the state of Iowa to tattoo in the establishment.

**22.4(10)** No animals, except service ~~dogs for visually or hearing-impaired persons~~ animals, shall be permitted in a tattoo establishment. Aquariums containing fish shall be allowed in waiting rooms and ~~nonprocedural~~ non-tattoo areas.

**641—22.5(135) Equipment.** All equipment shall be maintained in a clean and sanitary condition.

**22.5(1)** Cups to hold ink or dye shall be for single-patron use. Any ink or dye, once dispensed into an ink cup, must be disposed of immediately following use.

**22.5(2)** No change.

**22.5(3)** All tubes, tips and needle bars grips used for the tattoo procedure which are not sterile, not for single-patron use, and not disposable shall be physically cleaned with a detergent according to manufacturers' recommendations and then steam-sterilized or dry-heat sterilized before use on another patron.

**22.5(4)** Steam sterilization shall be at 250 degrees Fahrenheit (121 degrees Celsius) for 15 minutes at a minimum pressure of 15 pounds per square inch. Steam sterilization is the preferred method of sterilization.

**22.5(5)** No change.

**22.5(6)** All instruments must be sterilized on site. All instruments to be sterilized shall be placed in closed pouches ~~and the instruments must be sterilized on site.~~ The pouches must be dated effective for 30 days, after which the instruments must be resterilized and the pouches redated.

**22.5(7)** and **22.5(8)** No change.

**22.5(9)** Each tattoo establishment shall be equipped with a puncture-resistant, leakproof container designated for disposal of used needles and other sharps. The container shall be red and labeled with the "biohazard" symbol and shall be closeable for handling, storage, transportation and disposal. A written plan for disposal shall be maintained in the establishment ~~and be made available upon request by the inspection agency.~~

**22.5(10)** and **22.5(11)** No change.

**22.5(12)** Topical ointments shall be prepared for single-patron use.

#### **641—22.6(135) Procedures.**

**22.6(1)** to **22.6(3)** No change.

**22.6(4)** Tattoo artists shall wear clean garments when performing tattoo procedures. Tattoo artists shall wear disposable latex, nitrile, or vinyl gloves during the tattoo procedure. Gloves shall be changed after each tattoo. Tattoo artists shall wash their hands before and after each tattoo procedure.

**22.6(5)** All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure shall have appropriate barrier films covering them. These items include, but are not limited to, ~~machine heads,~~ clip cords, spray squeeze bottles, seat adjustment controls, power control dials or buttons, and work lamps.

**22.6(6)** and **22.6(7)** No change.

**22.6(8)** Tattooing shall not be performed on any area where there is evidence of skin infection, irritation, or abnormalities.

**22.6(9)** After the tattooing is completed, ~~an adequate dressing shall be applied to the tattoo area.~~ the tattoo artist shall:

a. Apply an adequate dressing or bandage to the tattoo area.

b. Provide to the persons tattooed printed aftercare instructions regarding tattoo care during the healing process.

c. Thoroughly clean the machine head with an acceptable disinfectant and spray an acceptable surface disinfectant over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.

~~**22.6(10)** Persons tattooed shall be provided with printed instructions regarding tattoo care during the healing process and shall be instructed to consult a physician if signs and symptoms of an infection develop.~~

~~**22.6(11)** After the tattoo is finished, an acceptable surface disinfectant shall be sprayed over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.~~

**641—22.7(135) Permit issuance and renewal.** The following criteria shall apply to application for a permit to practice as a tattoo artist or as a tattoo establishment.

~~22.7(1)~~ Applications may be obtained from the department's Web site at <http://www.idph.state-ia.us/eh/tattoo.asp> or are available upon request from the Iowa Department of Public Health, Division of Environmental Health, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075. Online or paper applications.

a. An applicant shall complete either an online application or a paper application according to the instructions contained in the application.

b. Paper applications are available to download at <http://www.idph.iowa.gov/Tattoo> or may be obtained from the tattoo office by writing to Tattoo Program, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319-0075, or by calling (515)242-6337.

c. Fees. In order to be processed, each application must be accompanied by the appropriate fee as determined in the fee schedule listed in subrule 22.8(2). All fees are nonrefundable. An application that includes insufficient or incorrect fees shall be considered incomplete.

d. A paper application shall be accompanied by the appropriate fee payable by check or money order to the Iowa Department of Public Health.

e. Online application fees shall be paid by credit card only.

f. If the applicant is notified that the application is incomplete, the applicant must contact the tattoo office within 90 days. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.

~~22.7(2)~~ The department will act within 60 days upon receiving a completed application. If an applicant satisfies permit requirements, satisfies the requirements of this chapter, and complies with inspection requirements, the department will issue a permit. Documentation of medical conditions and criminal convictions related to the practice of the profession shall include a full explanation from the applicant. No application shall be considered complete until the applicant responds to any program requests for additional information regarding the applicant's medical condition or criminal conviction.

~~22.7(3)~~ If the applicant has been convicted of a felony or misdemeanor, the department shall review evidence including but not limited to the following:

~~a. Official court record, which includes charges and disposition;~~

~~b. Copies of arrest records;~~

~~c. A letter from the applicant explaining the nature of the conviction;~~

~~d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug or alcohol-related offense and if treatment was obtained or required; and~~

~~e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.~~

~~22.7(4)~~ 22.7(3) All permits expire on December 31 of each year, regardless of date of issuance for the year issued. Permits shall be renewed annually upon acceptance of a renewal application provided by the department and receipt of the renewal fee. The applicant shall submit a completed application, supporting documentation and renewal fee by December 1. The permit holder must have a current permit in possession before performing tattooing. Applicants who submit applications for renewal received An applicant who submits a renewal application after December 31 will be required to pay an additional \$25 for each month delinquent.

~~22.7(5)~~ The department shall send a renewal notice by regular mail to each permit holder at the address on record at least 60 days prior to the expiration of the permit.

~~22.7(6)~~ 22.7(4) The permit holder is responsible for renewing the permit prior to its expiration. Failure of the permit holder to receive the notice does not relieve the permit holder of the responsibility for renewing the permit.

22.7(5) A permit which has not been renewed within 90 days of the permit expiration date will automatically be deactivated. There will be a \$25 reinstatement fee charged for reactivating a permit. This reactivation fee will be in addition to the renewal fee.

#### **641—22.8(135) Fees.**

22.8(1) All fees are nonrefundable.

22.8(2) Fees for all initial and renewal applications are as follows:

- a. Tattoo artist - \$75.
- b. Guest tattoo artist - \$75.
- c. Tattoo establishment - \$100.
- d. Temporary tattoo establishment:
  - (1) 0 to 10 participating artists - \$100.
  - (2) 11 to 100 participating artists - \$200.
  - (3) 101 or more participating artists - \$300.
- e. Mobile tattoo unit - \$100.
- f. Mobile tattoo event - \$25 per event.
- g. Tattoo establishment change of ownership - \$25.
- h. Tattoo establishment change of location - \$25.
- i. Mobile tattoo unit change of location - \$25.

**~~641—22.8~~ ~~641—22.9~~(135) Establishment Tattoo establishment permit requirements.**

~~22.8(1)~~ 22.9(1) No tattoo establishment shall be operated in the state without having a permit to operate issued by the department. Permits shall be posted in a conspicuous location in the tattoo establishment.

~~22.8(2)~~ 22.9(2) Each person acquiring or establishing a tattoo establishment shall apply for a permit prior to beginning operation and shall submit a floor plan of the establishment with the application.

~~22.8(3)~~ 22.9(3) A permit to operate shall be issued to a new establishment when the department or its representative has successfully completed an on-site inspection. ~~Permits shall be posted in a conspicuous place in the tattoo establishment.~~

~~22.8(4)~~ An annual, nonrefundable application fee of \$100, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo establishment permit application.

~~22.8(5)~~ 22.9(4) Tattoo establishment permits are nontransferable.

22.9(5) Client records. A tattoo establishment shall retain a record of all persons who have had tattoo procedures performed at the establishment.

a. Records shall include the client's name and date of birth, copy of client's identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client.

b. Records shall be retained in a confidential manner for a minimum of three years and shall be available to the department and the inspection agency upon request.

~~22.8(6)~~ 22.9(6) Change in ownership. Within 30 days of a change in ownership of a tattoo establishment, the new owner shall submit ~~an~~ a change in ownership application and fee for a new permit. When a change of ownership occurs, an on-site inspection must be completed by the inspection agency before a permit to operate will be issued. The new permit must be posted in a conspicuous location in the establishment.

~~22.8(7)~~ 22.9(7) Change in location. Within 30 days of a change of location of a tattoo establishment, the owner shall submit a ~~new~~ change of location application and a ~~nonrefundable fee of \$25~~ for a new permit. When a change of location occurs, an on-site inspection must be completed by the inspection agency before a permit to operate will be issued. The new permit must be posted in a conspicuous location in the establishment.

**~~641—22.9~~ ~~641—22.10~~(135) Tattoo artist permit requirements.**

~~22.9(1)~~ 22.10(1) An annual, nonrefundable application fee of \$75, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo artist permit application. No person shall perform tattooing without a current permit to operate issued by the department. Each person shall apply for a permit prior to beginning operation.

22.9(2) 22.10(2) Each permit issued shall be in effect solely for the tattoo artist named thereon and shall remain with the tattoo artist upon change of employment. Tattoo artist permits are nontransferable.

~~22.9(3)~~ **22.10(3)** An applicant for a tattoo artist permit shall be at least 18 years of age and must submit a photocopy documentation of a birth certificate or other equivalent document to show proof of attaining the age of 18 years.

~~22.9(4)~~ **22.10(4)** Applicants An applicant must have show proof of a high school diploma or general educational development certificate (GED) high school equivalency diploma. (NOTE: Tattoo artists granted a permit prior to January 1, 2010, will not be required to obtain a high school diploma or GED high school equivalency diploma.) A degree from an accredited college will be accepted in lieu of a high school diploma or high school equivalency diploma.

~~22.9(5)~~ **22.10(5)** Upon initial application and permit renewal application, a tattoo artists artist must complete and be current in the following possess and show proof of current certification of American Red Cross or equivalent nationally recognized certifications: for blood-borne pathogens and standard first aid.

~~a. Bloodborne pathogens; and~~

~~b. Standard first aid.~~

~~22.9(6)~~ Applicants must submit proof of successful completion of the certification programs listed in subrules 22.9(4) and 22.9(5).

~~22.9(7)~~ **22.10(6)** Each permit issued shall be in effect solely for the artist named thereon and shall remain with the artist upon change of employment. Guest tattoo artist permits. Effective July 1, 2016, guest tattoo artist permits will be available to tattoo artists who wish to tattoo at a temporary event in Iowa. Guest tattoo artist permits will be valid for 14 consecutive days. To obtain a guest tattoo artist permit, an applicant shall:

a. Apply for a permit prior to beginning operation.

b. Be at least 18 years of age. The applicant must submit legal identification showing proof of age.

c. Possess and show proof of current certification of American Red Cross or equivalent nationally recognized certifications for blood-borne pathogens and standard first aid.

d. Provide the name and date(s) of the temporary event where tattooing will be performed.

~~22.9(8)~~ **22.10(7)** Permits shall be posted in a conspicuous place in the tattoo establishment.

#### **641—22.10 641—22.11(135) Temporary establishment permit requirements.**

~~22.10(1)~~ **22.11(1)** A person who wishes to obtain a temporary establishment permit for a temporary event must submit a nonrefundable application fee of \$50, payable by check or money order to the Iowa Department of Public Health, and submit a floor plan(s) of the facility temporary tattoo establishment application form, a floor plan of the facility, promotional documentation for the event, and the appropriate fee at least 30 days prior to the event. Fees shall be based on the number of participating tattoo artists. The request application shall specify the following:

a. The purpose for which the permit is requested;

b. The period of time during which the permit is needed (not to exceed 7 14 calendar days per event, without reapplication);

c. The fulfillment of tattoo artist requirements as specified in 641—22.9(135); and 641—22.10(135). A list of participating tattoo artists shall be sent to the tattoo program no later than one week prior to the event.

d. The location for at which the temporary permit event will be used held.

~~22.10(2)~~ **22.11(2)** The temporary event must be contained in a completely enclosed, nonmobile facility such as inside a permanent building.

~~22.10(3)~~ **22.11(3)** The temporary establishment shall comply with the following:

a. Conveniently located hand-washing facilities with liquid soap, single-use towels or hand dryers and potable hot and cold water under adequate pressure to a mixing-type faucet shall be provided. Drainage in accordance with local plumbing codes shall be provided. Tuberculocidal, single-use hand wipes to augment the hand-washing requirements of this paragraph must be available in each booth.

b. A minimum of 80 square feet of floor space shall be provided for each booth.

c. There shall be ~~at least 100 foot-candles of light at the level~~ sufficient lighting where the tattoo procedure is being performed.

d. ~~Facilities to properly sterilize instruments and evidence of a spore test performed on sterilization equipment 30 days or less prior to the date of the event must be provided; or only single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed. All tubes, tips and grips used for the tattoo procedure that are not single use must be properly sterilized and dated 30 days or less prior to the date of the event. Evidence of a spore test performed on the sterilization equipment must be dated 30 days or less prior to the date of the event. Single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed.~~

e. Tattoo artists must properly clean and sanitize the area used for tattoo procedures.

f. ~~Floors of the facility~~ the tattooing area(s) shall be smooth and impervious or be covered with an impermeable barrier.

~~22.10(4) 22.11(4)~~ The facility where the temporary establishment permit is needed event will be held must be inspected by the designated inspection agency and be issued a permit prior to the performance of any tattoo procedures. A \$50 inspection fee for each booth shall be made payable to the inspection agency.

~~22.10(5) 22.11(5)~~ No animals, except service animals of clients, shall be allowed in the temporary establishment at any time.

~~22.10(6) 22.11(6)~~ Temporary establishment permits issued under the provisions of these rules may be suspended by the department for failure of the holder to comply with the requirements of these rules.

~~22.10(7) 22.11(7)~~ Permits Temporary establishment permits and tattoo artist permits shall be posted in a conspicuous place in the temporary establishment.

**641—22.11 641—22.12(135) Mobile tattoo unit permit requirements.** Effective July 1, 2016, no new mobile tattoo units will be permitted. (NOTE: Mobile tattoo units granted a permit prior to July 1, 2016, may continue to operate with a current permit provided they remain compliant with the rules of this chapter.)

~~22.11(1) 22.12(1)~~ Mobile tattoo unit permits shall be in compliance with all of the following requirements:

a. No mobile tattoo unit shall be operated in the state without having a permit to operate issued by the department.

b. ~~Each person acquiring or establishing a mobile unit shall apply for a permit prior to beginning operation.~~ All tattoo artists working in a mobile tattoo unit must have a permit and must comply with the permit requirements of these rules. Artist permits shall be posted in a conspicuous location in the mobile tattoo unit.

c. ~~A permit to operate shall be issued to a new mobile unit when the department or its representative has successfully completed an on-site inspection.~~ Permits Mobile tattoo unit permits shall be posted in a conspicuous place in the mobile tattoo unit.

d. ~~An annual, nonrefundable application fee of \$100, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal mobile unit permit application.~~

e. ~~d.~~ Tattoo mobile Mobile tattoo unit permits are nontransferable.

f. ~~Change in ownership. Within 30 days of a change in ownership of a mobile unit, the new owner shall submit an application and fee for a new permit.~~

g. ~~e.~~ Change in address location. Within 30 days of a change of ~~location of a~~ address of where the mobile tattoo unit is housed, the owner shall submit a new application and a ~~nonrefundable fee of \$25~~ for a new permit.

f. Inspections will be conducted by the local jurisdiction in which the mobile tattoo unit is housed. Out-of-state mobile tattoo units must have a current Iowa mobile tattoo unit permit and will be required to have an annual inspection.

~~22.11(2) 22.12(2)~~ Tattoo mobile Mobile tattoo units and tattoo artists working from a mobile tattoo unit shall also comply with all of the following requirements.

a. Mobile tattoo units are permitted for use only at ~~special~~ temporary events lasting 14 calendar days or less. Permits must be obtained at least 14 days prior to the event, and no tattoo procedures shall be performed before a permit is issued. Promotional documentation of the event must be included with the application. Permit holders are responsible for compliance with all other local regulations including but not limited to zoning and business license requirements.

b. The mobile tattoo unit shall be maintained in a clean and sanitary condition at all times. Doors shall be tight-fitting. Openable windows shall have tight-fitting screens.

c. Mobile tattoo units must ~~have approved~~ meet the sterilization ~~equipment available,~~ requirements in accordance with ~~all requirements of 641—22.5(135).~~

d. Mobile tattoo units shall be used only for the purpose of performing tattoo procedures. No habitation or food preparation is permitted inside the vehicle unless the tattoo work station is separated from culinary or domicile areas by walls, an impervious floor-to-ceiling, from culinary or domicile areas barrier.

e. Mobile tattoo units shall be equipped with a hand sink for use of the tattoo artist for hand washing and preparing the client for the tattoo procedures.

(1) The hand sink shall be supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer.

(2) An adequate supply of potable water shall be maintained for the mobile tattoo unit at all times during operation.

(3) The source of the water and storage of the tank(s) shall also be identified.

~~(4) Tuberculocidal, single-use hand wipes to augment the hand-washing requirements of this subrule must be available.~~

f. All liquid wastes shall be stored in an adequate storage tank with a capacity at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of at a publicly owned treatment works site approved by the department of natural resources (IDNR).

g. Restroom facilities must be available at the ~~special~~ temporary event or within the mobile tattoo unit.

(1) A hand sink must be available ~~inside~~ within a reasonably acceptable distance from the restroom cubicle.

(2) The hand sink shall be supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels ~~in dispensers~~ or hand dryer.

~~(3) Restroom doors~~ Restrooms must be self-closing, ~~and adequate ventilation must be available~~ adequately ventilated.

h. All tattoo artists working in a mobile tattoo unit must have a permit and must comply with the permit requirements of these rules. Permits shall be posted in a conspicuous location in the mobile tattoo unit

i. No animals, except service animals ~~of clients~~, shall be allowed in the mobile tattoo unit at any time.

~~j. Permits shall be posted in a conspicuous place in the mobile unit.~~

**~~641—22.12~~ ~~641—22.13(135)~~ Agreements.** The department may enter into agreements with the local boards of health to provide inspections and enforcement. An inspection agency shall:

1. Ensure that its inspectors will meet the educational requirements of ~~641—22.14(135)~~ ~~641—22.15(135).~~

2. No change.

**~~641—22.13~~ ~~641—22.14(135)~~ Inspection requirements.**

~~22.13(1)~~ 22.14(1) The inspection agency shall bill the owner of a tattoo establishment \$250 upon completion of an inspection. Inspection fees are due upon receipt of a notice of payment due.

~~22.13(2)~~ 22.14(2) Tattoo establishments shall be inspected annually, and inspection reports shall be maintained for three years by the inspection agency.

~~22.13(3)~~ **22.14(3)** When the tattoo establishment is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency shall be paid to the local inspection agency or its designee.

~~22.13(4)~~ **22.14(4)** When an inspection agency determines that a special inspection is required, such as a follow-up inspection or an inspection generated by complaints, the inspection agency may charge a special inspection fee, which shall be based on the actual cost of providing the inspection.

~~22.13(5)~~ **22.14(5)** Unpaid inspection fees will be considered delinquent 30 days after the date of the bill. A late fee of \$30 per month will be assessed to the establishment owner after a 30-day notice. If inspection fees remain unpaid after 60 days, an order to cease and desist operations will be issued by the department.

~~22.13(6)~~ **22.14(6)** Failure to ~~permit~~ allow an inspection is grounds for denial of an initial tattoo establishment permit or for issuance of an order requiring suspension of a tattoo establishment's existing operations.

~~22.13(7)~~ **22.14(7)** If an imminent health ~~hazard~~ threat exists, the inspection agency or the department may, pursuant to Iowa Code section 17A.18A, order the establishment to cease operation immediately. Operation shall not be resumed until authorized by the inspection agency or the department.

~~22.13(8)~~ **22.14(8)** ~~Material safety~~ Safety data sheets (~~MSDS~~ SDS) for the chemicals used at the tattoo establishment shall be maintained at the establishment in a location known and readily accessible to the establishment staff and shall be made available upon request of the inspection agency.

~~22.13(9)~~ **22.14(9)** An establishment inspected under this chapter shall post the most recent routine inspection report, along with any ~~current complaint~~ or reinspection reports, in a location at the establishment that is readily visible to the public.

~~641—22.14~~ **641—22.15(135) Tattoo inspector qualifications.** Each person designated as a tattoo inspector shall have successfully completed a blood-borne pathogen certification course from the American Red Cross or an equivalent nationally recognized organization. A copy of current certification shall be maintained by the local inspection agency.

~~641—22.15(135) Client records.~~ A tattoo establishment shall keep a record of all persons who have had tattoo procedures performed.

~~22.15(1)~~ Records shall include the client name, date of birth, photocopy of identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client.

~~22.15(2)~~ Records shall be retained in a confidential manner for a minimum of three years and shall be available to the department and the inspection agency upon request.

~~641—22.16~~ **(135) Enforcement.**

**22.16(1)** No change.

**22.16(2)** The inspection agency ~~shall~~ may take the following steps when enforcement of these rules is necessary.

*a. and b.* No change.

*c. Failure to comply.* If the owner of a tattoo establishment, ~~or mobile tattoo unit, or temporary establishment~~ fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapter 135 or in accordance with local ordinances.

~~641—22.17~~ **(135) Adverse actions and the appeal process.**

**22.17(1)** The department may deny an application for a permit, ~~may~~ revoke a permit, order that a tattoo establishment not be operated, ~~may~~ order a tattoo artist to cease engaging in the practice of tattooing, or ~~may~~ refer the case to the office of the county attorney or attorney general for possible criminal penalties when the department finds that an establishment is not operated in accordance with these rules or that a permitted person or a person who is not permitted has committed any of the following acts:

a. to y. No change.

**22.17(2)** Notice of issuance of a denial, revocation, or order to cease operations shall be served by certified mail, return receipt requested, or by personal service.

**22.17(3)** Upon receipt of the order, the aggrieved party may request an appeal. The appeal shall be made in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. The appeal shall be addressed to Iowa Department of Public Health, Division of ~~Environmental Health~~ ADPER and EH, Tattoo Permit Program, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the order shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the order upon satisfaction that the reason for the order has been or will be removed. After the hearing, or upon default of the aggrieved party, the administrative law judge shall affirm, modify or set aside the order. If no request for appeal is received within the 20-day time period, the department's order shall become the department's final agency action.

**22.17(4) to 22.17(10)** No change.

**22.17(11)** Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The copy shall be directed to Iowa Department of Public Health, Division of ~~Environmental Health~~ ADPER and EH, Tattoo Permit Program, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

**22.17(12)** No change.

These rules are intended to implement Iowa Code section 135.37.