

CHAPTER 22
PRACTICE OF TATTOOING

641—22.1(135) Purpose. The purpose of this chapter is to stipulate the permit and operational requirements for tattoo artists and tattoo establishments.

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

“*Department*” means the Iowa department of public health.

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

“*Minor*” means an unmarried person who is under the age of 18 years.

“*Tattoo artist*” means any person engaged in the practice of tattooing.

“*Tattoo establishment*” means the building 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.

641—22.3(135) General provisions.

22.3(1) Tattoo artists and tattoo establishments who fail to meet the requirements of Iowa Code section 135.37 or these rules shall be guilty of a serious misdemeanor.

22.3(2) No person shall tattoo a minor. Violators shall be guilty of a serious misdemeanor.

22.3(3) No tattoo artist shall engage in the practice of tattooing without first obtaining a tattoo artist permit from the department.

22.3(4) Tattoo artists and tattoo establishments which are in compliance with Iowa Code section 135.37 and 641—Chapter 22 are not relieved from the requirements of any other applicable state laws or local ordinances.

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

22.3(6) Tattooing shall not be practiced in a residence unless the tattoo establishment is completely separated from the living quarters by a solid permanent partition. A solid door leading to the living quarters shall be permitted, provided it remains closed during business hours. A direct outside entrance to the tattoo establishment shall be provided.

22.3(7) Tattoo establishments shall be inspected annually.

641—22.4(135) Sanitation and infection control.

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

22.4(2) A sink for handwashing supplied with potable hot and cold running water shall be available in or directly adjacent to the tattooing area. Hand-washing facilities shall be supplied with liquid soap and single-use paper towels.

22.4(3) Toilet facilities must be available for employee use or patron use.

22.4(4) The tattoo establishment, including the immediate area where the tattoo procedure is to be performed, shall have an area of not less than 150 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 shall have impervious, smooth, washable surfaces.

22.4(6) The entire premises and all facilities used in connection therewith shall be maintained in a clean, sanitary, vermin-free condition and in good repair.

22.4(7) All refuse shall be stored in rigid containers with plastic liners which are emptied at least once each business day.

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

22.4(9) Smoking or consumption of food or drink shall not be allowed in any area where the actual tattoo procedure is being performed.

22.4(10) No animals, except guide dogs for visually or hearing impaired persons, shall be permitted in a tattoo establishment.

641—22.5(135) Equipment.

22.5(1) Cups to hold ink or dye shall be for single-patron use.

22.5(2) Any dye or ink in which needles were dipped shall not be used on another person.

22.5(3) All tubes, needle bars, and needles used for the tattoo procedure that are not sterile, for single-patron use and 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.

22.5(5) Dry-heat sterilization shall be at 350 degrees Fahrenheit (170 degrees Celsius) for one hour.

22.5(6) Sterilizers shall be monitored monthly for spores of *Bacillus subtilis* and records shall be maintained of results.

22.5(7) Each tattoo establishment shall maintain written procedures to follow in the event of positive spore tests; for example, materials processed in that sterilizer, dating from the sterilization cycle having the positive biological indicator to the next cycle showing satisfactory biologic indicator challenge results, must be considered nonsterile and must be reprocessed before being used.

22.5(8) Each tattoo establishment shall be equipped with a container designated for disposal of used needles and other sharps. A written plan for disposal shall be required.

22.5(9) Any bottles of solution shall be labeled as to contents and used according to manufacturers' directions.

22.5(10) Use of clippers is recommended for removal of unwanted hair. After use, clippers shall be cleaned with detergent and water and then disinfected with 70 percent ethyl or isopropyl alcohol for ten minutes or with quaternary ammonium compounds as directed on the product label.

22.5(11) Razors shall be for single-patron use and shall be disposable.

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

22.5(13) All equipment shall be maintained in a clean and sanitary condition.

641—22.6(135) Procedures.

22.6(1) For privacy purposes at the patron's request, there shall be in place (or readily available) a panel or other barrier of sufficient height and width to effectively separate the patron from any unwanted observers or waiting patrons. Panels or other barriers may be fixed or movable, rigid or flexible.

22.6(2) Tattoo artists shall scrub their hands thoroughly before beginning the tattoo. Hands shall be dried with individual single use towels.

22.6(3) Tattoo artists shall wear clean outer garments. It is recommended that gloves be worn by the tattoo artists during the tattoo procedure. Gloves shall be changed after each tattoo. Hands shall be washed after gloves are removed.

22.6(4) The skin area to be tattooed shall first be cleansed with soap and water. Single-use towels or sponges (gauze) shall be used during the cleansing procedure.

22.6(5) Before placing the tattoo design on the patron's skin, the tattoo artist shall prepare the skin with an antiseptic such as 70 percent ethyl or isopropyl alcohol or 10 percent iodophor solution.

22.6(6) Tattooing shall not be performed on any area where there is evidence of skin infection.

22.6(7) After the tattooing is completed, a dressing shall be applied to the tattoo area.

22.6(8) 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.

641—22.7(135) Application for permit—fees.

22.7(1) No tattoo establishment shall be operated in the state without having a permit to operate issued by the department.

22.7(2) Each person acquiring or establishing a tattoo establishment shall apply for a permit prior to beginning operation.

22.7(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.

22.7(4) Applications are available upon request from the Iowa Department of Public Health, Division of Health Protection and Environmental Health, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075.

22.7(5) An annual, nonrefundable application fee of \$25, payable to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo establishment application.

22.7(6) The annual fee for each tattoo artist permit shall be \$40.

22.7(7) Tattoo artist permits and tattoo establishment permits are nontransferable.

22.7(8) All permits expire on December 31 of each year, regardless of date of issue. Permits shall be renewed annually upon acceptance of a renewal application provided by the department and receipt of the renewal fee.

22.7(9) The owner of the tattoo establishment shall be billed \$200 for each tattoo establishment inspection. Tattoo establishments shall be inspected annually. When the tattoo establishment is located within a contracted area of a board of health, the costs billed will be paid to the contracted board of health, or its designee.

641—22.8(135) Variances.

22.8(1) A variance to these rules may be granted by the department provided sufficient information is afforded to substantiate the need for and propriety of the variance. A variance request shall be in writing and submitted to the department for consideration.

22.8(2) The granting or denial of a variance from these rules shall take into consideration, but shall not be limited to, the following criteria:

a. Substantially equal protection of health and safety must be afforded by a means other than that prescribed in the particular rule for which the variance is requested.

b. The degree of variance is sufficiently small so as not to pose a significant risk of injury to any individual, and the remedies necessary to alleviate the need for a variance would incur substantial and unreasonable expense on the part of the person seeking the variance.

22.8(3) The department shall respond in writing to all variance requests. The response shall include the reason for granting or denying the requested variance and, if approved, the time period for which the variance will be effective.

22.8(4) Any request for appeal concerning the denial of a variance request shall be in accordance with the procedures outlined in rule 22.9(135).

641—22.9(135) Adverse actions and the appeal process.

22.9(1) If the department determines that the provisions of Iowa Code section 135.37 and these rules have been or are being violated, the department may order that a tattoo establishment not be operated until the necessary corrective action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may request that the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

22.9(2) An order to cease operating shall be delivered by certified mail, return receipt requested, or by personal service.

22.9(3) Upon receipt of the order, the aggrieved party may request an appeal. The appeal shall be made in writing to the department within 30 days from the date of the aggrieved party's receipt of the department's order. The address is: Iowa Department of Public Health, Division of Health Protection, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 30-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 30-day time period, the department's order shall become the department's final agency action.

22.9(4) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

22.9(5) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

22.9(6) When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 22.9(7).

22.9(7) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

22.9(8) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

22.9(9) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

22.9(10) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of the action pursuant to Iowa Code chapter 17A.

22.9(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 address is: Iowa Department of Public Health, Division of Health Protection, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075.

22.9(12) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

These rules are intended to implement Iowa Code section 135.37.

[Filed 11/9/89, Notice 10/4/89—published 11/29/89, effective 1/3/90]

[Filed 11/15/93, Notice 9/1/93—published 12/8/93, effective 1/12/94]

[Filed 11/15/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]