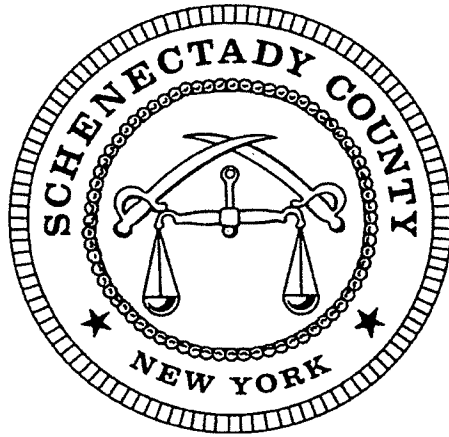


# ***Schenectady County***

## ***Sanitary Code***



### ***Body Art***

***Tattoo/Body Piercing Regulations  
Effective October 12, 2021***

**Chapter 125. HEALTH: SCHENECTADY COUNTY SANITARY CODE**

[HISTORY: Adopted 4-14-2015 by Local Law 2-2015 except section 125.02, subdivision B which was adopted 6-13-2000 by Local Law 5-2000. Amended by Local Law 5-2021]

**Section 125.01. Definitions and general provisions.**

A. Title.

The rules and regulations herein contained together with any duly enacted amendments in addition thereto shall be known as the sanitary code of the Schenectady County department of public health services district.

B. Definitions.

When used herein, unless otherwise expressly stated;

1. "Health district" shall mean the Schenectady County health district established pursuant to the provisions of section 340 of the New York State Public Health Law.
2. "Department or health department" shall mean the Schenectady County department of public health services of the Schenectady County health district.
3. "Health services advisory board" shall mean a group of no more than 9 members nominated from the community to advise and recommend actions in regard to public health matters. The county legislature shall constitute the board of health with all the powers and duties of a board of health or part county health district as enacted in section 14.00 of the charter of the County of Schenectady.
4. "Commissioner" shall mean the commissioner of public health of the Schenectady County department of public health services or duly authorized representative.
5. "Public health director" shall mean any person qualified under sections 11.180 through 11.182 of the New York State sanitary code who, with appropriate medical consultation, is appointed to administer and manage the public health programs within Schenectady County as head of the county's department of public health services.
6. "Sanitary code" shall mean and comprise the rules and regulations now or hereafter formulated, promulgated and recommended by the health services advisory board and/or the public health director and adopted by the

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Schenectady County legislature pursuant to section 347 of the New York State Public Health Law.

7. "State sanitary code" shall mean the codes, rules and regulations established by the public health council of the State of New York being the same as Chapter I of title 10 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR).
8. "State Administrative Regulations" shall mean the Administrative Rules and Regulations established by the Public Health Council of the State of New York being the same as Chapter II of Title 10, Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR).
9. "Person" shall mean any individual, public and private corporation, political subdivision, agency, board, municipality, partnership, association, firm, trust, or estate which is recognized by law as the subject of rights and duties.
10. "Approved" shall mean acceptable under conditions of use to the commissioner or public health director based on the determination of conformance to appropriate standards and good public health practices.
11. "Permit" shall mean the issuance of a document by the commissioner or public health director having jurisdiction, after inspection, which was found to be in compliance with the applicable provisions of this code and the New York State sanitary code.
12. "Permittee" shall mean a person to whom a permit is issued.
13. "Temporary Food Service Establishment" shall mean a food service establishment which operates at a fixed location for a period of time not to exceed 14 days.

**C. Sanitary code: where in force.**

The provisions of the sanitary code shall be in full force throughout the Schenectady County department of public health services district.

**D. Special provisions.**

The regulations of the sanitary code shall be supplemental to the regulations, rules and orders of the New York State sanitary code, Public Health Law, Penal Law and other New York State laws relating to public health and shall, as to matters to which it refers, and in the territory prescribed therefore by law, supersede all local ordinances heretofore or hereafter enacted inconsistent therewith.

**E. Enforcement.**

It shall be the duty of the commissioner or public health director of the Schenectady County department of public health services district, existing pursuant to law, to enforce any and every regulation of the sanitary code as the duly designated representative of the county legislature which is the local board of health.

**F. Interference with notices.**

No persons shall remove, mutilate, or conceal any authorized notice or placard of the department of health posted in or on any premises or public place except by permission of the commissioner/public health director or an authorized representative thereof.

**G. Issuance of licenses.**

Nothing herein contained shall be construed to restrict or abrogate the authority of any city or village or any town in the health district to adopt and enforce additional regulation, control and/or issuance of any license and/or renewal and/or revocation therefore and to charge and collect a fee therefore, provided, however, that whenever inspection as to health and sanitation is required, no such city or such village or such town shall issue or renew such license without first having obtained approval from the commissioner or director of public health of the compliance with the rules and regulations now or hereafter formulated, promulgated and recommended by the health services advisory board and/or the public health director and adopted by the county legislature.

**H. Local ordinances.**

Nothing herein contained shall be construed to restrict or abrogate the authority of any city or any village or any town in the health district to adopt and enforce additional ordinances or to enforce existing ordinances relating to health and sanitation if such ordinances are not inconsistent with the provisions of the New York State Public Health Law, and/or the State sanitary code, and/or sanitary code.

**I. Fees**

1. Each and every fee authorized pursuant to this Chapter and charged as of the effective date of Local Law x-2015 shall remain in full force and affect.
2. Notwithstanding any provision of law to the contrary, including paragraph 1, above, each and every fee contemplated by this Chapter shall be amended from time to time by the county legislature by resolution.
3. Notwithstanding paragraph 2, above, insofar as this Chapter contemplates fines, such fines shall only be amended by local law, in accordance with the New

York State Constitution, the New York State Municipal Home Rule Law, and the General Municipal Law.

**Section 125.07. Body art.**

A. Declaration of policy. [Adopted 04-13-1999]

This legislature finds that the practice of tattooing and/or body piercing involves the alteration or penetration of the skin or mucous membrane surfaces, which if done improperly, can lead to serious health problems and the possibility of transmission of fatal diseases. This legislature further finds and determines that a significant and possibly growing number of minors are engaging in the practice of tattooing and/or body piercing. Therefore, the purpose of this law is to regulate tattooing and body piercing, within the County of Schenectady, in order to protect the public health, safety and general welfare of its citizens.

B. Definitions.

The following words and phrases, as used in this section of the county sanitary code, shall have the indicated meanings:

1. "Adequate light" shall mean that the body art establishment be so illuminated as to permit all methods of body art to be clearly visible without obstruction by shadow or darkness.
2. "Adequate ventilation" shall mean a free and unrestricted circulation of fresh air throughout the body art establishment and the expulsion of foul or stagnant air.
3. "Aftercare" shall mean written instructions given to the client, specific to the body art procedure(s) rendered, regarding caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.
4. "Applicant" shall mean any person who applies to the Schenectady County department of health for either a body art establishment permit, body art practitioner permit or transient body art practitioner permit.
5. "Apprentice" shall mean an individual who does not have a permit to practice body art and holds her/himself out as one who wishes to receive instruction and training from a permitted body art practitioner at a permitted body art establishment in an effort to learn how to perform body art procedures.
6. "Apprenticeship" shall mean instruction of or concerning body art procedures and practices given by a permitted body art practitioner at a permitted body art establishment to an individual who is not a permitted body art practitioner, which involves any actual performance of body art procedures on any individual, including but not limited to clients, family and friends, whether or

not in exchange for monetary or any other compensation provided by the individual, apprentice and/or client.

7. "Autoclave" shall mean an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.
8. "Autoclaving" shall mean a process, which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of thirty-five (35) minutes at twenty (20) pounds of pressure (psi) at a temperature of 270 degrees Fahrenheit.
9. "Bloodborne pathogens standard" shall mean U.S. Department of Labor Occupational Safety and Health Administration (OSHA) standards contained in 29 CFR 1910.1030, entitled "Regulations (Standards) Bloodborne Pathogens".
10. "Body art" shall mean the practice of physical body adornment by permitted establishments, practitioners and transient practitioners using techniques, including but not limited to tattooing, cosmetic tattooing, branding, scarification, body piercing, including but not limited to piercing the ear, other than the earlobe, with a presterilized single-use stud-and-clasp ear-piercing system. This definition shall not include procedures that constitute the practice of medicine as defined by the New York State education department, such as tongue-splitting or implants, which are prohibited.
11. "Body art establishment" or "establishment" shall mean a location, place, or business that has been granted a permit by the commissioner/public health director where the practices of body art are performed, whether or not for profit.
12. "Body art practitioner" or "practitioner" shall mean a specifically identified individual who has been granted a permit by the commissioner/public health director to perform body art in an establishment that has been granted a body art establishment permit by the commissioner/public health director. This term includes, but is not limited to, tattoo artists and body piercers.
13. "Body art work station" shall mean the area within a body art establishment in which body art is performed.
14. "Body piercing" shall mean puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized jewelry or other adornment into the opening. Such term shall not include tongue-splitting.
15. "Branding" shall mean inducing a pattern of scar tissue by any means, including but not limited to the use of heat, a heated material (usually metal), freezing, electricity or propane applied to the skin, making a serious burn,

skinning or the infliction of any damage to the skin which eventually becomes a scar.

16. "Client" shall mean a member of the public who requests a body art procedure at a body art establishment.
17. "Commissioner" shall mean the commissioner of public health services or a duly authorized representative thereof.
18. "Compensation" shall mean payment given in return for services rendered. If body piercing is offered in conjunction with the sale of an item of jewelry actually being used in connection with the body piercing, then that service or act of body piercing shall be deemed to have been provided in conjunction therewith for compensation.
19. "Cosmetic tattooing" shall mean a method of tattooing, which involves placing ink or other pigment into or under the skin or mucosa, including but not limited to the eyelids, eyebrow area and lips, by the aid of needles or any other instrument used to puncture the skin or mucosa, resulting in permanent coloration, which may or may not be referred to as permanent make-up.
20. "Department" shall mean the Schenectady County department of public health services of the Schenectady County health district.
21. "Director" shall mean the director of public health services or a duly authorized representative thereof.
22. "Disinfectant" shall mean a product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).
23. "Disinfection" shall mean the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
24. "Ear piercing" shall mean the puncturing of the ear, other than the lobe of the ear, with a presterilized single-use stud-and-clasp ear piercing system following the manufacturer's instructions. Such ear piercing shall be subject to regulation under this Chapter.
25. "Equipment" shall mean all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
26. "Experience" shall mean knowledge, skill, understanding and at least one year of body art practice at a body art establishment.

27. "Hand sink" shall mean a lavatory equipped with hot and cold running potable water under pressure, used solely for washing hands, arms or other portions of the body.
28. "Hot water" shall mean water that attains and maintains a temperature of 110 degrees to 130 degrees Fahrenheit.
29. "Implant" shall mean the insertion of objects, including but not limited to jewelry, under the skin, including but not limited to transdermal, subdermal or microdermal insertions, whether fully or partially submerged under the skin.
30. "Instruments used for body art" shall mean hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.
31. "Invasive" shall mean entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break or otherwise compromise the skin or mucosa.
32. "Jewelry" shall mean any object inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium or platinum, or a dense, low-porosity plastic, which is free of nicks, scratches or irregular surfaces, is internally threaded and has been properly sterilized prior to use.
33. "Minor" shall mean any person under the age of eighteen (18) years.
34. "Mentor/Teacher" shall mean a permitted body artist with at least five (5) years of body art experience, education, and training who is permitted to train one apprentice per year.
35. "Nurse Practitioner" shall mean a registered professional nurse holding a certificate as a nurse practitioner pursuant to provisions of the New York State Education Law
36. "Operator" shall mean any person who individually, jointly or severally with others, owns, controls, operates, conducts or manages, directly or indirectly, any body art establishment, whether or not actually performing the work of a body art practitioner.
37. "Permit" shall mean the:
  - a. "Artist permit or license" shall mean the issuance of a document by the director to a tattooist/ body piercer certifying that said person is found to be in compliance with the applicable provisions of this local law, and the regulations promulgated thereunder.



- b. "Shop permit or license" shall mean the issuance of document by the director certifying that a tattoo/piercing shop, after inspection, is found to be in compliance with the applicable provisions of this local law, and the regulations promulgated thereunder.
38. "Person" shall mean an individual or any form of business or social organization, including but not limited to, corporations, partnerships, limited liability companies, associations, estates, trusts or unincorporated organizations.
39. "Physician" shall mean an individual licensed as a doctor of medicine or doctor of osteopathy or equivalent licensed under the provisions of the New York State Education Law.
40. "Procedure surface" shall mean any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure or any associated work area, which may require sanitizing.
41. "Regulated medical waste" shall mean waste as defined in part 70-1.2 of the State sanitary code.
42. "Sanitary" shall mean clean and free of agents of infection or disease.
43. "Sanitize" shall mean the application of a U.S. Environmental Protection Agency (EPA) registered sterilizer (contained on List A: EPA's Registered Antimicrobial Products Registered with the EPA as Sterilizers) on a cleaned surface in accordance with the label instructions.
44. "Scarification" shall mean altering skin texture by any means, including but not limited to, cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.
45. "Sharp" shall mean any item capable of causing percutaneous injury as defined in part 70-1.2 of the State sanitary code.
46. "Sharps container" shall mean a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and that is labeled with the International Biohazard Symbol.
47. "Single-use items" shall mean products or items that are intended for one (1) time, one (1) person use and are disposed of after use on each client, including but not limited to, pre-sterilized tattoo needles, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

48. "Sterilize" shall mean the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.
49. "Tattoo" shall mean the indelible mark, figure, scroll, symbol or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.
50. "Tattooing" shall mean any method, which involves placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.
51. "Tongue-splitting" shall mean the cutting of a person's tongue into two (2) or more parts.
52. "Training" shall mean education or schooling obtained at an institution other than the body art establishment or by an individual or individuals at a body art establishment, which education is approved by the commissioner/public health director.
53. "Transient body art practitioner" or "transient practitioner" shall mean a specifically identified individual who has been granted a temporary permit by the commissioner/public health director to perform body art in an establishment that has been granted a body art establishment permit by the commissioner/public health director. Such individual may perform a single body art procedure or multiple body art procedures during a time period not to exceed 14 consecutive days. This term includes, but is not limited to, transient practitioners performing tattoos and body piercings.
54. "Ultrasonic cleaning unit" shall mean a unit approved by the commissioner/public health director, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.
55. "Universal precautions" shall mean a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol 38, No S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vol 40, No RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand-washing, gloving, personal protective equipment, injury prevention and proper handling and

disposal of needles, other sharp instruments and blood and body fluid contaminated products.

C. Inspections.

The commissioner/public health director shall have access to the body art establishment when open to the public, for the purpose of determining compliance with the sanitary code.

D. Exemptions. [Adopted 04-13-1999 by L.L. 3-1999]

The provisions of this section shall not apply to body piercing performed by a duly licensed physician or nurse practitioner or persons acting under the supervision of a physician or nurse practitioner.

E. Restrictions.

1. No tattooing, piercing of nipples, genitalia, branding or scarification shall be performed on a minor.
2. Body piercing, other than piercing the nipples or genitalia, may be performed on a minor, provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure.
3. The performance of laser removal of tattoos shall be prohibited by any body art practitioner in any body art establishment consistent with licensing requirements of the New York State department of education.
4. The performance of any kind of implant shall be prohibited by any body art practitioner in any body art establishment consistent with licensing requirements of the New York State department of education.
5. The performance of tongue-splitting shall be prohibited by any body art practitioner in any body art establishment consistent with licensing requirements of the New York State department of education.

F. Operation of body art establishments.

1. General Physical Facility

The building and equipment shall be maintained in a state of good repair at all times. The body art establishment premises shall be kept clean, neat and free of litter and rubbish.

- i. Walls, floors and ceilings of the body art work stations and procedure surfaces shall be smooth, free of open holes or cracks, light-colored, washable and in good repair. Walls, floors and ceilings shall be

maintained in a clean condition. All procedure surfaces, including but not limited to client chairs and benches, shall be of such construction as to be non-porous and easily cleaned and sanitized after each client. No cleaning of any portion of the work station shall be undertaken while actual body art is being performed.

- ii. The floor of the body art establishment shall be of impervious material.
- iii. The body art establishment shall have adequate light and adequate ventilation.
- iv. The body art establishment shall be separate from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales or any other such activity that may cause potential contamination of work surfaces.
- v. All body art establishments shall be supplied with potable water and no other source of water shall be permitted.
- vi. There shall be a minimum of one (1) toilet facility containing a toilet and sink for clients. The toilet facility shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. At least one (1) covered, foot operated waste receptacle shall be provided in each toilet facility. Such facilities shall be in compliance with the Sanitary Code.
- vii. The premises shall have adequate facilities for handwashing and separate facilities for washing equipment and instruments. All washing facilities, whether for handwashing or equipment cleaning, shall have hot and cold running water.
- viii. All instruments and supplies, including but not limited to, needles, dyes and pigments shall be stored in clean, dry and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- ix. The body art establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of thirty-six (36) inches from the required ultrasonic cleaning unit.
- x. The body art establishment operator shall provide for the disposal of all types of waste products in compliance with part 70 of the State sanitary code and the Sanitary Code. Solid waste shall be stored in covered, leak-proof, rodent-resistant containers and shall be removed from the premises at least weekly.

- xi. The body art establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin and rodents within the body art establishment.
- xii. The body art establishment shall have a customer waiting area, exclusive and separate from any body art work station, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
- xiii. No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities (e.g., seeing-eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- xiv. Smoking shall be prohibited in all areas of the body art establishment.

2. Body art work station.

- i. Each body art establishment shall have one (1) or more body art work stations separated by a wall, such wall shall not be required to be permanent, from the waiting room or any room or rooms used as such. No work station shall be used as a corridor for access to other rooms. Body art shall be performed on clients only in said work station.
- ii. Each body art work station shall be used by one (1) body art practitioner for the purpose of performing body art on one (1) client at any given time.
- iii. Each body art work station shall have sufficient floor space for each practitioner to perform body art work. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art work stations shall be separated by partitions at a minimum.
- iv. The surface of all work tables shall be constructed of metal or other material which is smooth, light-colored, non-absorbent, corrosive-resistant and easily sanitized.
- v. At least one (1) covered, foot-operated waste receptacle shall be provided in each body art work station. Receptacles in the work stations shall be emptied daily.
- vi. Eating or drinking shall be prohibited in the body art work station, with the exception of fluids being offered to a client during or after a body art procedure.

B. Requirements for Single-Use Items Including Inks, Dyes and Pigments.

- i. Single-use items shall not be used on more than one (1) client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to part 70-2 of the State sanitary code. There shall be a sharps container at each body art work station properly affixed so as to facilitate safe and sanitary disposal.
- ii. All products applied to the skin, including but not limited to body art stencils, applicators, gauze and razors, shall be single-use and disposable.
- iii. Hollow bore needles or needles with a cannula shall not be reused.
- iv. All inks, dyes, pigments, solid core needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Only non-toxic dyes and pigments shall be used for tattooing.
- v. Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic caps. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

C. Sanitation and sterilization measures and procedures.

- i. All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, to remove blood and tissue residue, and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- ii. After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave. Sterilization shall be accomplished by placing in an autoclave for a minimum of thirty-five (35) minutes at twenty (20) pounds of pressure (psi) at a temperature of 270 degrees Fahrenheit. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months. Sterilization methods must meet the requirements of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Disinfection and Sterilization of Patient-Care Equipment, 1985.
- iii. The autoclave shall be used, cleaned and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for

inspection by the commissioner/public health director. Autoclaves shall be located away from work stations or areas frequented by the public.

- iv. Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by quarterly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the commissioner/public health director. These test records shall be retained by the operator for a period of five (5) years and made available to the commissioner/public health director upon request.
- v. All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- vi. Following sterilization, instruments shall be handled and stored in such a manner as to prevent contamination. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- vii. If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- viii. When assembling instruments used for body art procedures, the practitioner shall wear disposable medical gloves and use medically recognized standards to ensure that the instruments and gloves are not contaminated.
- ix. Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

D. Posting requirements.

The following shall be prominently and conspicuously displayed in the body art establishment, clearly visible to the client:

- a. A disclosure statement, as approved by the commissioner/public health director. A disclosure statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
- b. Printed instructions, as approved by the commissioner/public health director, on the care of the skin after the performance of body art as a

precaution to prevent infection. A copy of such instructions shall also be given to each client.

- c. The address and telephone number of the Schenectady County department of public health services, Environmental Division, Body Art Program, which has jurisdiction and the procedure for filing a complaint.
- d. An emergency plan, including:
  - i. a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
  - ii. a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
  - iii. sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- e. An occupancy and use permit as issued by the local building official.
- f. A current body art establishment permit as issued by the commissioner/public health director.
- g. Each body art practitioner's permit as issued by the commissioner/public health director.

E. Body art establishment recordkeeping.

The body art establishment shall maintain the following records in a secure place for a minimum of five (5) years, and such records shall be made available to the commissioner/public health director upon request:

- a. Body art establishment information, which shall include:
  - a. name, address and telephone number of the establishment;
  - b. hours of operation of the establishment;
  - c. name, address and telephone number of the owner or operator;
  - d. a complete list and description of all body art procedures performed;
  - e. an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement;



- f. a Material Safety Data Sheet, when available, for each ink and dye used by the establishment;
  - g. a copy of the U.S. OSHA standards contained in 29 CFR 1910.1030, entitled "Regulations (Standards) Bloodborne Pathogens";
  - h. a Bloodborne Pathogens Exposure Control Plan as mandated by U.S. OSHA;
  - i. a copy of these regulations.
- b. Employee information, which shall include:
- a. full name of the employee;
  - b. exact duties of the employee;
  - c. date of birth of the employee;
  - d. residence address of the employee;
- c. Client Information, which shall be prepared prior to any procedure being performed, and include:
- i. name and signature of the client;
    - ii. date of birth and age of the client;
    - iii. residence address and telephone number of the client;
    - iv. date of the procedure;
    - v. name of the practitioner who performed the procedure(s);
    - vi. description of procedure(s) performed and the location on the body;
  - vii. a signed consent form as specified by section 6(h)4ii; and
  - viii. if the client is a person under the age of eighteen (18), proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian as specified by section 5(b).
- d. Records of body art performed shall be entered in ink or indelible pencil and kept on file. Additionally, all fully completed and signed client

consent forms shall be kept in a binder in reverse chronological order of the date of the procedure(s). Body art records and the consent form binder shall be available for examination by the Commissioner/Public Health Director and shall be preserved for at least five (5) years from the date of the last entry therein.

- e. Before any body art procedure is performed, the body art practitioner or transient body art practitioner shall inform the client of the risks involved in the body art requested, and any possible complications, proof of which shall be entered in the record.
- f. Client information shall be kept confidential at all times.

F. Hepatitis B vaccination series.

The body art establishment shall require that all body art practitioners and transient body art practitioners have either completed, or were offered and declined, in writing, the Hepatitis B vaccination series. Records documenting compliance with this requirement shall be provided to the commissioner/public health director upon request.

G. Standards of practice.

Body art practitioners and transient body art practitioners are required to comply with the following minimum health standards:

- a. A practitioner or transient practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S Centers for Disease Control and Prevention.
- b. A practitioner or transient practitioner shall refuse service to any person who may be under the influence of alcohol, drugs or any intoxicant, or any person with skin lesions or any communicable disease.
- c. Practitioners or transient practitioner who use ear piercing systems must conform to the manufacturer's directions for use and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the ear.
- d. Health History and Client Informed Consent

Prior to performing a body art procedure on a client, the practitioner or transient practitioner shall:

- a. Inform the client, verbally and in writing, that the following health conditions may increase health risks associated with receiving a body art procedure:

1. history of diabetes;
  2. history of hemophilia (bleeding);
  3. history of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants, etc.;
  4. history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
  5. history of epilepsy, seizures, fainting or narcolepsy;
  6. use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
  7. Hepatitis, HIV or any other communicable disease.
- ii. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents him/her from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 6(e)2).
- e. A practitioner or transient practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices and wear clean clothes; specifically a clean outer garment when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash his/her hands in hot running potable water with liquid soap and individual hand brush, then rinse hands and dry with disposable paper towels or by mechanical means. This shall be done as often as necessary to remove contaminants.
- f. In performing body art procedures, a practitioner or transient practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with section 6(h)5) before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one (1) person. The use of disposable single-use gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- g. The skin of the practitioner or transient practitioner shall be free of rash or infection. No practitioner or transient practitioner experiencing symptoms such as diarrhea, vomiting, fever, rash, productive cough,

jaundice or affected with draining or open skin infections such as boils, impetigo, scabies, infected wounds, open sores, abrasions or weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms.

- h. The commissioner/public health director may require any practitioner or transient practitioner found to have any communicable disease or suspected of having such a disease, as designated in part 2 of the State sanitary code, to obtain a certificate signed by a duly licensed physician stating that the person has recovered from and is no longer infectious or is free from a communicable disease before permission to resume operation as a practitioner is granted. Said certificate shall be available for inspection by the commissioner/public health director.
- i. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- j. Preparation and care of a client's skin area must comply with the following:
  - i. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
  - ii. Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use in a sharps container, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
  - iii. In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single-use, and discarded immediately after use in appropriate covered containers and disposed of in accordance with part 70-2 of the State sanitary code.
  - iv. Before placing the design on the client's skin, the practitioner or transient practitioner shall treat the skin area with an EPA approved or hospital grade germicidal solution, which shall be applied with sterile cotton or sterile gauze. Only sterile petroleum jelly (petrolatum) shall be applied to the area to be tattooed and only from

single-use, collapsible metal or plastic tubes. The application may be spread by the use of sterile gauze or other sterile applicator but not directly with the fingers.

- v. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
- k. The practitioner or transient practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. Said aftercare instructions shall be approved by the Commissioner/Public Health Director. A copy of the aftercare instructions shall be provided to the client. The written instructions shall advise the client:
  - i. of the proper cleansing of the area, which received the body art;
  - ii. that a completed tattoo shall be washed with a piece of sterile gauze or sterile cotton saturated with an EPA approved or hospital grade germicidal solution from a single-use container. It shall be allowed to air dry. After drying, an anti-bacterial ointment shall be applied to the tattoo and the entire area covered with material appropriate to prevent contamination;
  - iii. to consult a health care provider for:
    - 1. unexpected redness, tenderness or swelling at the site of the body art procedure;
    - 2. any rash;
    - 3. unexpected drainage at or from the site of the body art procedure; or
    - 4. a fever within two (2) hours of the body art procedure; and
  - iv. of the name, address and telephone number of the body art establishment.
  - v. contaminated waste shall be stored, treated, transferred and disposed in accordance with parts 70-2.3 and 70-2.4 of the State sanitary code.<sup>1</sup>

H. Body art establishment permit.

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<sup>1</sup> This had read 70-1.3 and 70-1.4. Kayleigh had left a note stating she could not find those citations. It appears the citations I used are the actual sections and there are no 70-1.3 and 70-1.4.

**Chapter 125. HEALTH: SCHENECTADY COUNTY SANITARY CODE**

- i. It shall be unlawful for any person to operate a body art establishment in Schenectady County unless such person possesses a valid Permit to Operate a Body Art Establishment issued by the Commissioner/Public Health Director, pursuant to this Chapter.
  - ii. An establishment permit shall be valid from the date of issuance and shall automatically expire no longer than one (1) year from the date of issuance unless revoked sooner by the Commissioner/Public Health Director.
  - iii. Application for a Body Art Establishment Permit shall be made, at least thirty (30) days before the first day of intended operation, on a form prescribed by and available from the Commissioner/Public Health Director. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
  - iv. The Commissioner/Public Health Director shall require that the applicant provide, at a minimum, the following information in order to be issued a body art establishment permit:
    - a. name, address and telephone number of:
      1. the establishment;
      2. the operator of the establishment; and
      3. the practitioner(s) working at the establishment;
    - b. the manufacturer, model number, model year and serial number, where applicable, of the autoclave used in the establishment;
    - c. a signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Sanitary Code, Chapter VII, Body Art; a drawing of the floor plan of the proposed establishment to scale for a plan review by the Commissioner/Public Health Director, as part of the permit application process; and
    - d. such additional information as the Commissioner/Public Health Director may reasonably require.
  - v. A permit for a body art establishment shall not be transferable from one place or person to another.
- I. Body art practitioner permit.
- a. It shall be unlawful for any person to practice body art or perform any body art procedure in Schenectady County unless such person possesses

a valid Permit to Practice Body Art issued by the Commissioner/Public Health Director, pursuant to this Chapter.

- b. A practitioner shall be a minimum of eighteen (18) years of age.
- c. A Body Art Practitioner Permit shall be valid from the date of issuance and shall automatically expire no longer than one (1) year from the date of issuance unless revoked sooner by the Commissioner/Public Health Director and shall not be transferable from one place or person to another.
- d. Application for a Body Art Practitioner Permit shall be made, at least thirty (30) days before the first day of intended operation, on a form prescribed by and available from the Commissioner/Public Health Director. An applicant shall submit all information required by the form and accompanying instructions. The term “application” as used herein shall include the original and renewal applications.
- e. Application for a practitioner permit shall include:
  - i. photographs identifying the practitioner. Two (2) 2” x 3” passport photos or two (2) copies of a driver’s license photos taken within three (3) years shall accompany the submission of the practitioner application. One (1) photo (or copy) submitted with the application shall be maintained as a permanent record in the Department’s file. The second photo shall be affixed to the practitioner’s permit and kept on file and available for inspection at the establishment;
  - ii. name of the practitioner, which includes legal name as well as any trade name, nickname, name also known as (aka) and alias associated with the individual in the body art profession;
  - iii. date of birth of the practitioner;
  - iv. residence address of the practitioner;
  - v. residence telephone number of the practitioner;
  - vi. mailing address of the practitioner;
  - vii. place(s) of employment as a practitioner; and
  - viii. Practitioner training, education and/or experience: training, education and experience may include certifications, courses and/or seminars provided by professional body art organizations or associations, equipment manufacturers, hospitals or other health care or educational institutions, which shall be submitted to the

Commissioner/Public Health Director for approval. All courses shall be attended in person or on-line.

- ix. Required practitioner training, education and/or experience shall be as follows:
  - 1. Documentation of bloodborne pathogen training program (or equivalent), which includes infectious disease control; waste disposal; hand-washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques as set forth by U.S. OSHA. Examples of courses approved by the Commissioner/Public Health Director include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA); and
  - 2. Documentation of first aid certification.
  - 3. Documentation of cardiopulmonary resuscitation (CPR) certification.
  - 4. Documentation of successful completion of a course in skin diseases, skin anatomy, disorders and conditions, including diabetes, or possesses a combination of training and experience deemed acceptable to the Commissioner/Public Health Director.
  - 5. Documentation of experience, in lieu of the requirements set forth in sections 6(j)5)(viii) d and e acquired in other states that regulate body art as deemed acceptable to the Commissioner/Public Health Director.
  - 6. Apprenticeship shall be allowed when the apprentice is under the direct supervision of the Mentor/Teacher.
- x. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of Chapter VII.
- xi. Any transient practitioner at any body art establishment shall be required to obtain a transient practitioner permit, which shall be subject to all of the aforementioned requirements and the following:
  - 1. A transient practitioner permit shall be valid from the date of issuance and shall automatically expire no longer than thirty (30) days from the date of issuance unless revoked sooner by the Commissioner/Public Health Director and shall not be transferable from one place or person to another.



2. A transient practitioner application shall be completed by the Transient practitioner, submitted and signed by the owner or operator of the permitted body art establishment where the transient practitioner intends to practice and be accompanied by a copy of the body art establishment's valid permit.
3. Notwithstanding any requirement set forth in this Chapter, a transient practitioner permit may be issued to any person holding a license or similar certification or registration to engage in the practice of tattooing or body art issued under the jurisdiction of another political subdivision, state, or nation. Such temporary permit will allow a person to apply body art within the County of Schenectady under the direct supervision of a body art practitioner holding a permit issued by the Schenectady County Department of Public Health. Should an applicant for such a transient permit practice body art in a jurisdiction that does not license or otherwise register body art practitioners, the Commissioner/Director may issue such transient permit to such person upon the presentation of proof satisfactory to the Commissioner/Director that the applicant has received training equivalent to that necessary to satisfy the educational requirements contained in this Chapter.

G. Injury reports.

A written report of any injury, infection, complication or disease suffered by a client, as a result of a body art procedure or complaint thereof, shall be forwarded by the Operator to the Schenectady County department of public health services with a copy to the injured client within five (5) days of its occurrence or knowledge thereof. The report shall include:

1. the name of the affected client;
2. the name and location of the body art establishment involved;
3. the nature of the injury, infection, complication or disease;
4. any other information considered relevant to the situation.

H. Complaints.

1. The Commissioner/Public Health Director shall review complaints and conduct any necessary investigations received about a body art establishment and/or body art practitioner's, transient body art practitioner's practices or acts, which may violate any provision of the Sanitary Code.

2. If such investigation reveals a finding that said act(s) or practice(s) is in violation of the Sanitary Code, then the Commissioner/Public Health Director shall take any and all enforcement action is necessary to remedy the situation.

I. Denial, revocation or refusal to renew permit.

1. The Commissioner/Public Health Director may deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for denial, revocation or refusal to renew:
  - i. any actions that pose a risk to the health or safety of the public;
  - ii. fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
  - iii. practicing body art while impaired by alcohol, drugs, any intoxicant, physical disability, or mental instability;
  - iv. being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs or intoxicants having similar effects;
  - v. knowingly encouraging, permitting, aiding or abetting an unauthorized person to perform body art activities requiring a permit herein;
  - vi. continuing to practice while his/her body art permit is denied, lapsed, suspended or revoked;
  - vii. having been disciplined in another jurisdiction, in any way, by the proper permitting authority for reasons substantially the same as the regulations set forth herein those set forth in the Commissioner/Public Health Director's regulations; and
  - viii. other just and sufficient cause that would render the establishment, practitioner, transient practitioner or applicant unfit to practice body art as deemed by the Commissioner/Public Health Director.
2. A permit may be denied, revoked or renewal refused after notice and an opportunity for a hearing has been provided by the Commissioner/Public Health Director.
3. Applicants denied a permit may reapply at any time after denial.

J. Suspension of permit.

A permit may be suspended by the Commissioner/Public Health Director, without notice upon violation by the permit holder of the requirements set forth herein this Chapter, when in his/her opinion there exists an imminent threat to public health,

safety or welfare. If the Permit is not reinstated within 5 days of suspension, the permit holder shall be entitled to notice and an opportunity for a hearing on the violation.

**K. Fees.**

A fee shall be charged for each body art establishment, body art practitioner and transient body art practitioner permit issued in accordance with Article I of the Sanitary Code. This fee shall be paid either by certified check or money order made payable to the Commissioner/Public Health Director of Finance of Schenectady County. Payment shall accompany the application for permit. Such fee shall be set from time to time by the County Legislature by resolution.

**L. Severability.**

If any provision contained in Chapter VII is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

**Section 125.12. Enforcement.**

**A. Adoption of State sanitary code.**

The provisions of the Sanitary Code shall have the force and effect of law and it shall be the duty of the Commissioner/Public Health Director to enforce the Sanitary Code and he/she shall have all the powers, rights and duties of a Health District as provided or imposed by Section 309 of the Public Health Law, or any successor statute.

**B. Noncompliance or nonconformance penalties.**

Any noncompliance or nonconformance with any provision of the Sanitary Code or of any rule or regulation duly made thereunder, shall constitute a violation.

**1. Violations—criminal penalties.**

Any violation of the Sanitary Code or of a rule or regulation duly made thereunder, shall be subject to the enforcement procedure as set forth in Section 4 below and shall be punishable on a finding of a first offense by a fine of not more than two hundred fifty (\$250.00) dollars, or by imprisonment of not more than fifteen (15) days, or by both such fine and imprisonment; and for a second or subsequent offense, by a fine not exceeding five hundred (\$500.00) dollars, or by imprisonment not exceeding fifteen (15) days, or both.

**C. Enforcement procedure—persons holding permits—civil penalties.**

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1. Noncompliance with the Sanitary Code by a Permittee will result in the service of a “Notice of Violation and Order to Abate” upon the Permittee.
2. Noncompliance by the Permittee twice within a twelve month period will result in an order for an appearance at a preliminary departmental hearing (“PDH”).
3. At the PDH, opportunity will be given to the permittee to review the findings of violation and to propose an adequate abatement schedule.
4. Fines levied for violations cited on re-inspection shall be directly related to the gravity of the violations charged in accordance with the following schedule:
  - i. Fine guidelines:
    - a. Minimum fine shall be one hundred dollars (\$100).
    - b. Maximum fine for a single violation shall not exceed one thousand dollars (\$1000).
    - c. Fines will be based upon the violations cited after re-inspection pursuant to serving a “Notice of Violation” on the permittee.
    - d. Minimum fines for violations which are cited on re-inspection shall be:
      1. each critical (red) violation or any violation deemed to be an imminent public health hazard shall be two hundred dollars (\$200).
      2. each maintenance (blue) violation or any violation which is not an imminent public health hazard shall be one hundred and fifty dollars (\$150).
      3. if no violations are found upon re-inspection, a minimum fine of one hundred dollars (\$100) shall be imposed.
      4. violations of the same number and/or letter shall only be counted as 1 item in determination of the fine amount.
      5. Each day or a part of a day on which violation(s), or failure continues, shall constitute separate violations.
    - e. Past history of the permittee may also be considered when fines are levied.
    - f. Fines may be levied, according to the above procedure, against any permittee for violations of the same number and/or letter which are repeatedly cited on routine inspections.

- ii. Related punitive requirements.
  - a. The department may require the owner or operator of any permitted facility to attend training which is acceptable to the permit issuing official.
  - b. Failure by the facility operator and/or owner to attend the mandated training session(s) may result in increase of the fine to a maximum fine not to exceed one thousand dollars (\$1000).
  - c. Monthly inspection checks of the permittee in question may be required by the commissioner/ public health director.
  - d. Any structural repairs or procedural deficiencies may be addressed and corrective actions required as a result of the hearing.
- iii. Non-compliance penalty.
  - a. Failure to appear on the scheduled hearing date may result in increased fines and/or revocation of the operating permit.
  - b. If, at the conclusion of the hearing, the commissioner or public health director determines that the violations continue to present an imminent public health hazard, the permittee shall be subject to a maximum fine, not to exceed two thousand dollars (\$2,000) per single violation and/or immediate revocation of the operating permit.

D. Enforcement procedure – all violations.

- 1. Except as provided in Section 3 above, no civil penalties shall be imposed for violation of the Sanitary Code except after a formal hearing before the Commissioner/ Public Health Director.
- 2. Prior to requiring a formal hearing, a violation may be investigated by use of a preliminary informal hearing as set forth herein.

E. Powers of commissioner as related to hearings.

As provided by the public health law, the Commissioner/Public Health Director may:

- 1. issue subpoenas and/or subpoenas duces tecum;
- 2. compel the attendance of witnesses;
- 3. administer oaths to witnesses and compel them to testify;

4. issue warrants to any peace officer of any municipality in the Health District to apprehend and remove such person or persons as cannot otherwise be subjected to its orders or regulations, and to the sheriff of the county to bring to its aid the power of the county whenever it shall be necessary to do so; and
  5. prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the regulations of the State sanitary code. Said penalties shall comply with state law and this Sanitary Code to be sued for and recovered by it in any court of competent jurisdiction;
  6. appoint one or more hearing officers as shall be necessary to carry out its functions and duties. The hearing officer shall have the same powers possessed by the Commissioner/Public Health Director to hold and conduct hearings.
  7. make, without publication thereof, such orders and regulations for the suppression of nuisances and concerning all other matters in its judgment detrimental to the public health in special or individual cases, not of general application and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist, or upon which may exist the cause of other nuisances to other premises, or causing the same to be conspicuously posted thereon;
- F. maintain actions in any court of competent jurisdiction to restrain by injunction violators of his orders and the orders, rules and regulations of the Sanitary Code or otherwise to enforce such orders and regulations.
- G. Preliminary informal hearings.

The Commissioner/Public Health Director may investigate any application, complaint, circumstances or alleged violation of the health laws and regulations by conducting a preliminary informal hearing.

1. such hearing shall be scheduled for a day certain and shall be on due and adequate notice to the person or persons believed to be in violation of the Sanitary Code.
2. the notice of hearing shall set forth the time and place of the hearing; the purpose of the hearing, general specifications with reference to the particular provisions of the public health law, State sanitary code, the Sanitary Code or other health law or rule or regulation believed to be violated.
3. On the day of the hearing, the Commissioner/Director of Public Health shall note the names and addresses of the persons appearing at such hearing and shall thereafter proceed with the business of the hearing.

4. Notwithstanding the provisions set forth in subdivision (a) of this section, nothing shall preclude the Department from taking any action which it may deem appropriate or advisable in the circumstances.
5. The person who conducts the preliminary informal hearing shall make and file a written report thereof.
6. Subsequent to the preliminary informal hearing, the Commissioner/Public Health Director conducting such hearing may:
  - i. make a preliminary determination and/or preliminary order and if the affected parties enter into stipulation the Commissioner/Public Health Director may make a final order;
  - ii. set the matter down for a formal hearing;
  - iii. direct that any other action shall be taken as authorized by law or this Sanitary Code.

H. Formal hearings.

1. The Commissioner/Public Health Director may cause to be held a formal hearing on any application, complaint, circumstance, or alleged violation of the public health laws and regulations.
2. Notice of such formal hearing shall be served at least fifteen days prior to the date of the hearing.
3. The notice of the hearing shall set forth:
  - i. the time and place of the hearing;
  - ii. the purpose of the hearing;
  - iii. charges and violations complained of, if any, with specific reference to the provisions and sections of the public health law, state and local Sanitary Codes.
  - iv. the right to present evidence;
  - v. the right to examine and cross-examine witnesses; and
  - vi. the right to be represented by counsel.
4. On the day of the hearing the hearing officer shall:
  - i. note the appearances of the persons attending the hearing.

- ii. administer oaths to all witnesses and whose testimony shall be recorded.
  - iii. record all testimony taken which shall be recorded within a reasonable time after the conclusion of the hearing.
  - iv. not be bound by the rules of evidence in the conduct of a hearing, but the determination shall be founded upon sufficient legal evidence to sustain it.
5. The hearing officer shall, thereafter prepare findings of fact and conclusions thereof, upon which the Commissioner/Director of Public Health shall make a final written order setting forth the terms and conditions to be complied with and the assessment of penalties if deemed appropriate, and if applicable, and order of suspension or revocation of any permit or license.
  6. The order provided for in section (e) of this section shall be filed in the department and a copy thereof shall be provided to all respondents.
  7. Nothing contained herein shall preclude the Department from taking any action other than the formal hearing herein provided for, as may be prescribed by law; nor shall the department be precluded from taking such other action by virtue of the order made pursuant to this section.
- I. Service of notice.
- Unless otherwise expressly provided by law, or by any other provision of this code, service of notice of hearings shall be made pursuant to Section 6 (b).
- J. Investigations; hearings; adjournments.
1. The hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a day certain.
  2. If an adjournment is requested in advance of the hearing date, such request shall be submitted to the hearing officer in writing, and shall specify the reason for such request.
  3. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.
- K. The penalties provided by this Chapter XII may be sued for and recovered by the Department through the County Attorney in the name of the County of Schenectady in any court of competent jurisdiction.