

COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

BODY ART

1999 SUNRISE REVIEW



October 15, 1999

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed its evaluation of the sunrise application for regulation of body artists and permanent cosmetic technicians and is pleased to submit this written report. The report is submitted pursuant to §24-34-104.1, Colorado Revised Statutes, 1988 Repl. Vol., (the "Sunrise Act") which provides that the Department of Regulatory Agencies shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, the regulation.

The report discusses the question of whether there is a need for the regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm, and whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

M. Michael Cooke
Executive Director

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BACKGROUND

THE SUNRISE PROCESS

The Colorado Sunrise Act, (Act) §24-34-104.1 Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession must first submit information to the Department of Regulatory Agencies (DORA) for the purpose of a sunrise review. The intent of the Act is to impose regulation on occupational and professional only when it is necessary to protect the public health, safety or welfare. DORA is required to review the information submitted to prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:

- (I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- (II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and
- (III) Whether the public can be adequately protected by other means in a more cost-effective manner.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation. Applications received by June 30 must have a review completed by DORA by October 15 of the year following the year of submission.

BACKGROUND

PROPOSAL FOR REGULATION

The Boulder County Health Department has submitted an application for the regulation of the occupations known as body artists and permanent cosmetic technicians. Several other local health departments and some members of the profession subject to potential regulation support the application.

The applicant requests registration of persons practicing tattooing and piercing associated with body art and permanent cosmetics. Proposed minimum qualifications for registration include standardized education for body artists in the area of universal precautions, disease control, and sanitation. The applicant also proposes mandatory inspections of body art facilities.

The applicant proposes exempting certain acts from the definition of body art. Specifically exempt are medical procedures performed by a licensed health care professional acting within an authorized scope of practice. Piercing of the ear lobe using a pre-sterilized single use stud and clasp ear piercing systems commonly found in jewelry stores and piercing pagoda type establishments would also be exempt from regulation.

PROFILE OF THE PROFESSION

Body art functions include the practice of physical body adornment by body piercing, tattooing, cosmetic tattooing, branding, and scarification. Branding and scarification are popular in some cultures. While the practice does exist in the United States, it is not as prevalent as body piercing and tattooing. Permanent cosmetic tattooing became popular in the late 1980s. This procedure involves tattooing permanent coloration onto the face of an individual. The most common procedure is permanent eyebrows, to eliminate the need for shaping with cosmetics. However, permanent eyeliner, lipstick and other applications are possible. The Colorado Attorney General issued an opinion that the application of permanent cosmetics falls under the jurisdiction of the Colorado Board of Cosmetology.

Tattooists generally consider themselves artists, with the human body serving as the canvas for their creations. There are no recognized formal training programs for tattooists. Persons interested in the profession usually serve an apprenticeship with an experienced tattooist.

In recent years, the popularity of tattoos has increased. Teens and young adults are an expanding segment of the population receiving tattoos. One study has shown that the incidence of tattoos on women has increased dramatically (400 percent)

BACKGROUND

over a twenty-year period.¹ However, body art is not limited to a particular demographic population.

Tattoo parlors are generally small storefront operations. They can be located in strip malls, business districts, or as a free standing business. Some body artists operate mobile parlors in specially equipped vans.

Ear piercing has been popular in the United States for decades. Studies suggest that 80 percent of women over the age of 18 have pierced ears. Body piercing is also gaining in popularity, particularly among the 16-25 year old age group. Piercing in nose, tongue, eyebrow or lip are fairly common and visible. Navel, nipple, and genitalia piercing are not as visible, but are also increasing in popularity according to the Association of Professional Piercers, (APP) a professional trade organization. Ear piercing is commonly performed at a variety of establishments such as jewelry shops, department stores, and piercing pagodas located in malls. A technician usually performs ear piercing with minimum training using a specialized piercing "gun" that shoots a stud type earring into the lobe. The technician then places the earring back on the stud.

Body piercing is a more specialized process. Establishments offering body piercing may be located within a tattoo parlor or independently located. Some body artists provide both services, others specialize in just one process.

CURRENT PRACTICE

In the United States most body artists utilize standard procedures in applying body art. A tattoo gun is a mechanical device used to cycle a needle through the epidermis repeatedly, carrying ink into the papillary and reticular dermis. The needle is periodically dipped into a cup containing additional ink to replenish the supply on the needle. Single needle guns are used to outline designs and for detail work. Small or simple designs can be completed in a single session. Large complex designs may take several sessions lasting hours over a period of months to complete. Depending on the size of the area to be filled in on a large design, guns with multiple needles or larger bars containing several needles may be used.

There are several techniques for body piercing, depending on the area of the body being pierced and the type, length and thickness of the jewelry being used. Most often a solid bore or hollow bore needle of an appropriate gauge is used to make an opening through the designated part of the body. In the case of a solid bore needle,

¹ Armstrong, M.L. "Career-oriented women with tattoos" IMAGE: Journal of Nursing Scholarship 1991 1:23:215-20

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the needle is then removed and the jewelry is inserted. Depending on the thickness of the skin at the point of incision, and the jewelry selected, it may be necessary to use a hollow bore needle and thread the jewelry through the needle before securing or capping the jewelry. In some cases, the jewelry itself may be used to pierce the skin; similar to the technique used in piercing the earlobe for stud earrings.

Bleeding, swelling and tenderness are common at the location of newly applied body art. Depending on the location the healing process can take from one to eight weeks. Pierces in the tongue and lips generally heal faster than those in areas of the body kept covered. Tattoo professionals recommend keeping the wound clean and covered for the first week to two weeks in order to aid healing and prevent infection

REGULATION

REGULATION

There are no federal statutes or regulations specific to tattooing or body piercing.

There are 14 states with formal statewide regulatory programs for tattooing. An additional 12 states have state wide regulations which range from a prohibition against tattooing minors to standardized sanitation requirements. In at least two states, South Carolina and Massachusetts, professional tattooing is prohibited by statute. There are ten states with programs for piercing. State body art programs may incorporate requirements for training in disease and infection control, universal precaution requirements, record keeping requirements, artist registration/licensing, and facility inspections. Some states allow local jurisdictions to establish regulations.

COLORADO STATE REGULATION

The Colorado Board of Health and the Colorado Department of Public Health and Environment (CDPHE) have the responsibility to promulgate regulations designed to prevent the spread of contagious diseases. CDPHE has used its authority to promulgate rules and regulations pertaining to epidemic and communicable disease control found in the Colorado Code of Regulations (CCR). Regulation 10 of 6 CCR-1009-1 specifically addresses sterilization of tattoo and piercing needles. Regulation 10 states:

Regulation 10.

Cleaning and sterilization of needles, instruments, probes, and devices used by Acupuncturists, Tattoo Artists, and Persons Performing Ear or Other Percutaneous Piercing.

This regulation is promulgated pursuant to CRS 25-1-107(1)(A) and 12-29.5-111 which state that the Department has the authority to investigate and control the causes of epidemic and communicable diseases and that the Department shall promulgate rules relating to the proper cleaning and sterilization of needles used in the practice of acupuncture and the sanitation of acupuncture offices. Because bloodborne infections may be transmitted by any contaminated instrument which enters sterile tissue of a patient/client, this regulation is not restricted to acupuncturists.

All parts of the premises of an acupuncture, tattoo, or ear/percutaneous piercing establishment shall be kept in a clean, sanitary, neat, and orderly condition at all times. All tables, counters, and chairs used in connection with these procedures shall be constructed of a material which is easily cleaned and capable of being sanitized with a chemical germicide.

REGULATION

Prior to and after each treatment of acupuncture and each application of tattoo or ear/percutaneous piercing, the applicator shall wash his/her hands at a sink with both hot and cold running water and with soap having bactericidal qualities.

Equipment items shall be defined as any needle, instrument, probe, or device utilized by acupuncturists, tattoo artists, or persons performing ear/percutaneous piercing that punctures the skin or enters sterile tissue of any patient/client.

The use of sterile, single-use, disposable equipment items is encouraged.

Equipment items which have been used to puncture the skin or enter sterile tissue of a patient/client shall be considered infectious waste. Prior to disposal, such items must be placed in puncture-resistant containers. Such items should not be recapped, bent, broken, removed from disposable syringes, or otherwise manipulated by hand after use. Other solid waste, such as soiled linen, contaminated with blood or other body fluids must be placed in sealed, sturdy, impervious bags to prevent leakage of the contained items. All infectious waste must be disposed of in a manner consistent with CRS 25-15-401 et seq. and regulations of the Board of Health concerning infectious waste disposal.

Equipment items must be cleaned and sterilized before such items may be reused. Equipment items should first be thoroughly cleaned to remove adherent, organic material (e.g. blood and proteins). Persons involved in cleaning and decontaminating instruments should wear heavy-duty rubber gloves to prevent hand injuries. Equipment items must then be sterilized by steam (autoclaving), gas (chemical vapor), or dry heat sterilization. Sterilizers must be installed, maintained, and operated in conformance with the manufacturer's instructions and specifications. The adequacy of sterilization cycles must be verified by the periodic use of spore-testing devices, i.e. weekly for most practices, and the operator should keep records which demonstrate the frequency and results of such testing. Liquid chemical germicides (commonly referred to as "cold sterilization" solutions), ultrasound, and ultraviolet light cabinets are not acceptable sterilization methods for metal or heat-stable equipment items. Non-heat-stable equipment items which enter normally sterile tissue should receive high level disinfection using chemical germicides that are registered with the U.S. Environmental Protection Agency as "sterilants". The manufacturer's instructions for use of the germicides and the manufacturer's specifications so compatibility the equipment item with germicides should be closely followed.

REGULATION

Each office, clinic, business, or facility which utilized equipment items shall be responsible for insuring that all personnel who use, clean, sterilized, store, dispose, or otherwise handle equipment items are adequately trained and supervised.

All communicable diseases shall be reported by acupuncturists, tattoo artists, and persons performing ear/percutaneous piercing to the state or local health department in accordance with Regulations 1 through 4 of these rules.

The state health regulations do not provide for routine inspections of body art facilities or for the registration of facilities or artists. There are no standards for training of artists or for aftercare education to be provided to consumers.

As previously mentioned, the Colorado Board of Barbers and Cosmetologists regulates permanent cosmetic technicians. Applicants for cosmetician licensing must graduate from an approved program and successfully pass an examination developed by the Board. To be approved by the Board of Barbers and Cosmetologists to apply permanent cosmetics, (tattoos) licensed cosmeticians must complete an additional 132 hours of approved training. The requirements for the approved training program are contained in Table 1:

TABLE 1

Permanent Cosmetic Technician Education Requirements

TOPIC	HOURS
Sanitation/sterilization/safety	12
Skin Analysis	24
Equipment and supplies	8
Color theory and effects	32
Client consultation	16
Application of pigment	40
TOTAL	132

The Board does not certify or license permanent cosmetic technicians. However, licensed cosmeticians who perform the procedure without the approved training are subject to disciplinary action by the Board. It should be noted that DORA has recently recommended deregulating cosmeticians. The General Assembly will be considering that recommendation as part of the Sunset Review of the Board of Barbers and Cosmetologists.

REGULATION

LOCAL REGULATION

Colorado local governments have the option of implementing regulatory programs within their individual jurisdictions. Local health departments in three jurisdictions, the City and County of Denver, El Paso County, and the Northeastern Colorado Department of Health have implemented programs in Colorado. These programs provide for licensing of body art establishments, body artists, and facility inspections. The Denver regulations are considered to be the most comprehensive and are included in this report as Appendix A.

PRIVATE CREDENTIALLING

There are two major private organizations that represent professional body artists. The Alliance of Professional Tattooists (APT) represents tattoo artists. This organization requires applicants to complete an approved course in disease prevention prior to being accepted for membership. APT claims to have over 1,400 members nationally, approximately 40 in Colorado.

The Association of Professional Piercers (APP) is an organization representing body piercers. This organization also incorporates disease transmission education as a membership requirement. National membership numbers were not available, it is unknown if any members of the organization live or work in Colorado.

Membership in either organization is voluntary. Neither organization has formal disciplinary procedures, nor do they have the ability to prevent a nonmember from practicing the body art profession. Both organizations have developed consumer education materials to assist consumers in selecting an artist and facility that meets the standards of the individual organizations.

PUBLIC HARM

Tattooing and piercing are invasive procedures involving violating the integrity of the client's skin. In the case of tattooing there is an introduction of foreign matter into skin tissue. Whenever the integrity of a person's skin is compromised, there is a potential health risk.

Essentially there are three major health risks associated with body art: infection, allergic reaction, and disease transmission. Universal to both tattooing and piercing is the possibility of wound infection. There are numerous reports of infections from piercing and tattooing in medical literature. The applicant cited several instances in Colorado where individuals with pierces required medical treatment for chronic infections following procedures.

Studies have found infections in piercing occur fairly frequently. A report by the University of California at San Diego School of Medicine cited studies finding 11 percent of standard ear piercing and 24 percent of body pierces result in some type of infection.² Even highly regulated health care facilities such as hospitals are not immune to instances of harmful infections. The Centers for Disease Control estimates five percent of the patients admitted to a hospital will contract an infection during their stay.³ However, widespread contamination is rare and can be addressed by health departments quickly. Most bacterial infections resulting from body art will spontaneously heal without medical treatment. However, severe infections require medical treatment and can result in long term complications, such as amputation of infected tissue or even death.

In both tattooing and piercing, there is an additional health risk involving allergic reactions. Tattoo ink is not considered a pharmaceutical product and is not strictly regulated by the federal Food and Drug Administration. There is no mandatory testing of the products to ensure they are safe, or any requirements that the manufacturer disclose the ingredients. In fact, most manufacturers consider the ingredients trade secrets and some refuse to divulge contents even to customers. However, it is commonly known that certain metals are used in modern tattoo dyes, mercury (red), chromium (green), cadmium (yellow), and cobalt (blue). Some individuals who receive body art develop contact dermatitis or metal sensitization. However, the use of gold or surgical steel jewelry usually minimizes this condition in piercing.

² Tweeten, S. and Rickman, L. "Infectious Complications of Body Piercing" Clinical Infectious Diseases 1998; 26:735-40

³ "Doctors' dirty hands pose hospital danger: Rocky Mountain News November 11, 1999 p 40A

PUBLIC HARM

The third major health risk is the potential for disease transmission. As with infections, anytime the skin is broken there is a risk of bloodborne pathogens being transmitted. This risk is compounded by the possibility of needles, equipment, or supplies being contaminated by an infected party prior to a procedure being performed, or by the possibility that the artist is infected.

According to medical literature, tattooing and piercing techniques have been credited (or blamed) for outbreaks of: syphilis, leprosy, Hepatitis, tuberculosis, rubella, chancroid, tetanus, molluscum contagiosum, and HIV. According to the applicant, while each of these, and other diseases are possible to be contracted via body art applications, Hepatitis C is the disease that causes the most concern.

Hepatitis C is a viral infection that affects the liver. Individuals infected with Hepatitis C may not experience any symptoms initially. The long term effects include cirrhosis of the liver and possibly liver cancer. It is believed that once a person is infected with the virus they remain infectious throughout their life.

Hepatitis C, like Hepatitis B and HIV, is present in the blood of an infected person. The most frequent cause of transmission is when infected blood enters the bloodstream of another person. A blood screening process was implemented in 1990 to prevent the virus from entering the nations blood supply via transfusions. However, the virus may remain dormant for up to 20 years, so it is possible individuals who received a transfusion prior to that time are infected and do not know it.

Intravenous drug users, persons with multiple sex partners, those who received transfusions prior to 1990, and health care workers with occupational exposure to blood are at high risk for infection. Medications can be used in some cases to reduce liver inflammation and to treat other symptoms such as lethargy, loss of appetite, nausea, abdominal pain, fever, and joint pain. However, there is no cure at this time.

The presence of body art (tattoos and/or piercing) has been identified as significantly associated with Hepatitis C infections in several studies, including one at the University of New Mexico Hospital⁴. However, these studies do not differentiate between professionally obtained body art and procedures performed gratuitously by friends or acquaintances.

⁴ Balasekaran, Rang et al, "A case-control Study of Risk Factors for Sporadic Hepatitis C Virus Infection in the Southwestern United States" The American Journal of Gastroenterology V94, No.5, 1999

PUBLIC HARM

PUBLIC HARM IN COLORADO

Research for this report included interviews with state and local public health officials. All public health officials interviewed expressed a belief that body art procedures present a potential public health risk. However, the degree of risk is not quantifiable.

The CDPHE does not track individual consumer complaints regarding tattoos or piercing. The CDPHE did not identify body art procedures as a source of an outbreak of any communicable disease. Anecdotally, staff of the CDPHE report receiving consumer complaints regarding tattoo parlors. The most common complaint is from a parent concerned over a minor child obtaining body art without parental permission. Occasionally, a complaint regarding sanitary conditions is received. These complaints are usually referred to a local health department.

The State Board of Barbers and Cosmetologists regulates permanent cosmetic technicians. Since 1993 the Board has taken disciplinary action against four individuals related to permanent cosmetic application. Three cases involved applying cosmetic tattoos without a license, the fourth case was for providing services outside of the scope of practice. In this case the technician administered a local anesthetic, in violation of the Colorado Medical Practices Act.

Denver reports 14 licensed establishments with from one to 15 artists per establishment. Denver inspects the facilities annually and requires wound care instruction to clients and sanitation training for all artists. The Denver Department of Health and Hospitals staff reports that complaints regarding infections from both tattoos and piercing have decreased since the regulatory program was implemented. However, no quantitative data was available. Since 1994, the Denver Department of Environmental Health has investigated 27 complaints regarding body art establishments. Investigations results are categorized by the Department as Unsubstantiated, meaning it is unlikely the condition the complaint alleged occurred, Probable, meaning the it is possible the allegations are true but the investigation was not able to prove the allegation, and substantiated, meaning the investigation revealed the facts alleged in the complaint were true. The investigation results are detailed in Table 2.

PUBLIC HARM

TABLE 2
DENVER DEPARTMENT OF ENVIRONMENTAL HEALTH
Body Art Complaints 1994 to present

COMPLAINT	1994	1995	1996	1997	1998	1999*
Infection from piercing	0	1p	1p	1s	3s	0
Infection from branding	0	1p	0	0	0	0
Communicable disease from tattooing	1u	1u	0	0	0	0
Allergic reaction to tattoo ink	0	0	0	0	1s	0
Poor procedures/unsanitary conditions	0	1u	1p	1u 1p 1s	2p	1p 1u
Body art on minors	0	Several/u	0	Several/s	1s	0

*Through November 1999 u= Unsubstantiated, p= Probable, s= Substantiated

Northeastern Colorado Health Department, which encompasses Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma Counties, reports one licensee and one application pending. The Department has investigated four complaints since the program was initiated in February of 1999. All of the complaints were for the unlicensed practice of tattooing, none were substantiated.

No information was available regarding the number of licensees or complaints for the El Paso County program.

The Boulder County Health Department tracked body art related complaints for a period of over two years. The type and volume of complaints is detailed in Table 3:

TABLE 3
Boulder County Health Department
Body Art Studio complaints from 7-97 to 9-99*

TYPE OF COMPLAINT	NUMBER
Angry parent calling about under-age clients and infection control concerns	16
Dirty needle used by at-home tattooist	2
Tattooing by a studio closed by the Health Department	3
Body artist operating out of a private residence	3
Infected tattoo	3
Permanent make-up procedures applied in a private residence	1
TOTAL	28

* Source: Boulder County Health Department

ANALYSIS

ANALYSIS

The analysis of a sunrise application is guided by the sunset criteria contained in the statute. The first criterion is:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

The process of body modification known as body art is an invasive procedure that creates a potential for infection and disease transmission. It is clear from research of medical literature that infections and allergic reactions are not uncommon from newly obtained tattoos, body pierces, and other practices including scarification and branding. It is not conclusive from the literature whether the cause of the infections is from the process of receiving the body art or from a lack of care after the process is complete. It is likely that there are situations that can be traced to either cause.

The same invasive procedures that are a potential source of infection are also a potential source of disease transmission. While the potential is clearly described in several studies, the actual link to disease transmission in modern times has not been demonstrated.

Studies that linked disease transmission to tattoos and other forms of body art did not differentiate between professional tattoo parlors and amateur artists. There is evidence to suggest that modern professional body artists using standard sanitation and sterilization techniques present a relatively low risk to the public health. Body art procedures performed in a clean sanitized environment, using sterile, single use needles and single use ink cartridges have a lower potential for medical complications. However, there is a question as to how universal the use of these techniques are in an unregulated environment.

There is evidence that Colorado consumers have been harmed by the application of body art. It is not clear whether the documented infections occurred during the process in a body art studio, an amateur artist, or through negligent aftercare by the consumer. Anecdotal information from the jurisdictions that regulate body art indicate that complaints about post procedure infections declined when regulations were implemented requiring artists to provide written, detailed, aftercare instructions.

There is also evidence from the applicant that some body art establishments do not routinely use minimum sanitary and sterilization techniques thereby placing patrons at risk for infections and possibly disease transmission.

ANALYSIS

The largest number of consumer complaints, both those formally documented by the applicant and those estimated by other public health officials, concern body art on minors. There is no evidence that body art on minor children presents a greater health risk than body art on those who have obtained the age of majority. The question of restricting body art to adults is a matter of social public policy, not one of minimum public protection.

An additional issue discussed during the research for this report is a potential restriction against performing body art procedures on a client who is under the influence of drugs or alcohol. Alcohol is a blood thinner, any substance that inhibits blood clotting will increase bleeding during a procedure, increasing the potential for complications from the procedure. However, medical literature does not address this specific issue.

Drug use has a more identifiable safety concern. Illegal drug use has a significant statistical relationship with communicable diseases, including Hepatitis C. Performing procedures on individuals with communicable diseases increases the possibility of spreading the disease.

The research conducted by DORA concludes that there has been actual harm to the public in the form of minor infections from application of body art. There is also evidence that the application of body art presents the potential for disease transmission. Professional body artists using standard procedures minimize the risk for both infection and disease transmission. It is not known how many of the documented infections were the result of professional vs. amateur applications nor how many could have been the result of improper wound care after the application.

The second criterion in the statutory standard is:

Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence;

The public can clearly benefit from a clean and sanitized environment when body art is performed. The question of benefiting from initial and continuing professional competence is more difficult to determine. The usual standards used to establish professional competence do not apply in the instance of body artists.

There are no formal training programs for body artists. Many tattooists serve informal apprenticeships with established artists. However, there are no minimum training periods, examinations, evaluations or certifications for any body art techniques. In fact, at least one internet site offered a complete piercing education program in the form of a single video for \$29.99. Presumably, after watching this video an individual would have all the education necessary to perform any piercing procedure.

ANALYSIS

The applicant has suggested mandatory education in infection control, and standard and universal precautions as a minimum criterion for licensure. The use of infection control and precautions are necessary to protect the public. However, knowledge of these processes as the sole basis for professional licensure is questionable.

The public could benefit from the use of standard preventative measures in body art establishments. However, there is no recognizable evaluation of competency that could be used as the basis for an occupational or professional regulatory program.

The third and final criterion contained in the statute is:

Whether the public can be adequately protected by other means in a more cost-effective manner.

The applicant has suggested the creation of a regulatory program that would require the registration of body artists and the facility in which the artists work. The program requested would require periodic inspections of the facility and mandatory education for individual artists. A true registration program does not involve the establishment or verification of minimum education or competency. Registration is simply notification to a regulatory authority that an individual is practicing a particular activity. The regulatory program requested by the applicant is, in fact, a licensing program.

The creation of an occupational or professional licensing program requires more resources from the state than a registration program. Rather than simply collecting notifications, licensing requires verification of credentials, periodic renewals, and a disciplinary process. When an occupation or profession has clearly defined credentials or an evaluation process it is possible to develop a regulatory scheme based on that process.

Body artists do not have a clearly defined process to evaluate or establish competency. However, the application of body art techniques does present a potential harm to the public. Therefore, alternative public protection measures should be considered.

ANALYSIS

RECOMMENDATION

Require the Colorado Department of Public Health and Environment to develop regulations that specifically address body art establishments.

The evidence reviewed for this report does not support a recommendation to regulate body artists. There are no documented instances of disease transmission from a professional body art establishment in the state. In instances where infections have resulted from body art it is difficult to determine if the contamination occurred at the facility or during improper aftercare by the client. There is also no distinction made in most of the literature related to medical complications from body art as to whether the procedure was performed in a professional establishment or by an amateur artist.

There is potential for harm to the public from improper sanitation practices related to body art. Therefore, the public may be served by uniform application of sanitation standards in body art facilities. The current regulation used by state and local public health officials to regulate body art facilities the Colorado Department of Health and Environment Regulation 10. This regulation was promulgated as directed by 12-29.5-111 C.R.S.

The sunrise review found that Regulation 10 in its current form is not stringent enough to address issues in body art establishments. For example, the regulation only recommends and does not mandate single use needles. Regulation 10 also allows dry heat sterilization, which is not as effective as the steam heat autoclave. The applicant is also concerned that the regulation appears to allow cold sterilization in some instances. The regulations should address the issue of procedures performed on individuals under the influence of alcohol or with known health risks. The regulations should also mandate standards for aftercare instructions for individuals undergoing a body art procedure.

Statewide regulations are necessary to protect the public from unsanitary and unsafe practices in body art facilities. Body art facilities routinely engage in practices that expose the public to the potential for bodily harm. Actual harm in the form of infections has been documented nationally as well as in Colorado. Disease transmission is not as well documented, however the potential is very real. The severity of the potential diseases that could be transmitted warrant the intervention of the state in clearly establishing public protection standards for body art facilities. Compliance with regulations promulgated by the Colorado Department of Public Health and Environment specific to body art establishments will reduce the risk of public harm.

ANALYSIS

When regulations specific to body art facilities are in place local governments will have clear and consistent guidelines for the establishment of a regulatory program. A concern from the applicant's perspective is the lack of mandatory education and facility inspections for body art facilities. If CDPHE were to establish regulations to address the specific issues related to body art establishments, there would be no statewide mechanism to implement inspections and enforcement actions. Without an inspection program health departments are only authorized to respond to complaints.

Local governments are generally in better positioned to address the needs of the public in their jurisdictions. Under current law, local health departments have the authority to develop local registration or licensing programs for body art facilities and or artists. If statewide regulations were implemented, local governments could, at their option, develop local regulatory programs including fees to fund enforcement.

Appendices

Appendix A -
