

ENVIRONMENTAL  
HEALTH POLICY

## SKIN PENETRATION SURVEILLANCE STRATEGY

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## 1 Introduction

Skin that is intact, without cuts, abrasions or lesions, is a natural protective barrier against infection. Penetrating the skin can introduce infective micro-organisms into the body. To prevent the transfer of micro-organisms, operators must perform procedures in a safe and hygienic manner that include standard infection control procedures, maintaining clean premises, appropriate reprocessing of equipment and safe work practices.

Unhygienic practices and procedures may affect the health of both the client and the operator. Where procedures involving skin penetration are not managed correctly, they have the potential to transmit bacterial and fungal infections, as well as viral infections such as HIV, hepatitis B and hepatitis C.

The Public Health Act 1991 and Public Health (Skin Penetration) Regulation 2000 regulates body decorating and grooming practices carried out by people who are not registered as health professionals.

The regulated body decorating and grooming industries can include:

- acupuncture
- beauty treatments
- body, nose and ear piercing
- cosmetic enhancements
- colonic lavage
- tattooing; and
- blood cholesterol and glucose measurement

Hairdressing and other body decorating and grooming practices which do not deliberately pierce the skin are not regulated.

The City of Canada Bay Council recognises the importance of both regulating and educating skin penetration businesses throughout the City and this strategy documents Council's commitment.

## 2 Aim of the strategy

Minimise the risks associated with skin penetration procedures within the City, through enforcement and education.

## 3 Scope

The Skin Penetration Surveillance Strategy applies to skin penetration businesses within the City of Canada Bay Council. Specifically, the Strategy applies to skin penetration businesses regulated under applicable legislation; however the principles outlined are relevant to all skin penetration procedures.

## 4 Legislation, Guidelines, Standards and Codes of Best Practice

Applicable skin penetration legislation, guidelines, standards and codes of best practice include:

- NSW Public Health Act 1991
- NSW Public Health (Skin Penetration) Regulation 2000
- Guidelines on Skin Penetration
- Skin Penetration Code of Best Practice 2001

## 5 NSW Health

The City of Canada Bay Council is primarily responsible for the regulation of skin penetration businesses within the City. NSW Health provides guidance to Council and has regulatory powers under legislation to regulate skin penetration businesses within NSW.

## 6 The NSW Public Health Act 1991 and Council's responsibilities

The NSW Public Health Act 1991 and Public Health (Skin Penetration) Regulation 2000 give Council's Environmental Health Officers the power to enter, inspect, examine, photograph and require records of any premises undertaking skin penetration procedures, other than a medical practitioner for whom separate infection control standards are applicable under their registration Acts.

## 7 Skin Penetration business types and inspection frequencies

### 7.1 Skin Penetration Business Types

Under the NSW Public Health Act 1991, a skin penetration procedure means:

- acupuncture,
- tattooing,
- ear piercing,
- hair removal,
- any other procedure (whether medical or not) that involves skin penetration,
- any other procedure prescribed by the regulations, but does not include a procedure carried out in the practice of medicine or dentistry by:
  - a medical practitioner registered under the Medical Practice Act 1992 , or
  - a dentist registered under the Dentists Act 1989 , or
  - a person acting under the direction or supervision of such a medical practitioner or dentist, or
  - any other procedure prescribed by the regulations.

### 7.2 Exempt Premises

As hairdressing does not involve the intentional penetration of skin, hairdressing salons are not required to be inspected under the Public Health Act 1991. If, however a hairdressing salon undertakes any skin penetrating procedures in addition to hairdressing such as waxing and/or ear piercing they must notify Council of the changes within seven (7) days of the change occurring.

Once registered as a salon undertaking skin penetration procedures, the area of the salon used for skin penetrating procedures will be inspected annually as per Council's inspection regime.

### 7.3 Skin Penetration Business Inspection Frequencies

All skin penetration businesses will be inspected annually. Inspection frequencies will be at Council's discretion and generally based on risk.

## 8 Fees and charges

### 8.1 Council's Fees and Charges

The Local Government Act 1993 allows Councils to charge an approved fee for services provided under any Act:

- The services for which an approved fee may be charged include the following services provided under this Act or any other Act or the regulations by the council:
  - supplying a service, product or commodity
  - giving information
  - providing a service in connection with the exercise of the council's regulatory functions - Including receiving an application for approval, granting an approval, making an inspection and issuing a certificate
  - allowing admission to any building or enclosure.
- In particular, a council may charge an approved fee for inspecting premises that are reasonably required to be inspected in the exercise of the council's functions, whether or not the inspection is requested or agreed to by the owner or occupier of the premises.

(Local Government Act 1993 - Section 608 - Council fees for services)

In determining such a fee, Council must consider the following:

- 'A council, if it determines the amount of a fee for a service, must take into consideration the following factors:
  - the cost to the council of providing the service,
  - the price suggested for that service by any relevant industry body or in any schedule of charges published, from time to time, by the Department,
  - the importance of the service to the community,
  - any factors specified in the regulations.
- The cost to the council of providing a service in connection with the exercise of a regulatory function need not be the only basis for determining the approved fee for that service.
- A higher fee or an additional fee may be charged for an expedited service provided, for example, in a case of urgency'.

(Local Government Act 1993 - Section- 610 D - How does a Council determine the amount of a fee for service?)

Council's fees and charges are set annually. An inspection fee and re-inspection fee where applicable will be charged.

## 9 Skin Penetration Business Inspection Procedure

### 9.1 Inspection Procedure

When conducting an inspection of a skin penetration business, Council's Environmental Health Officer should:

- Attend to the premises when due for inspection without prior notice being given to the business.
- Present themselves at the front counter, advise that they are at the premises to conduct an inspection under the Public Health Act 1991 and request to speak to a person with the authority to represent the business.
- Conduct the inspection whilst the business is open for trading.
- Provide proof of identity when requested.
- Adhere to any occupational health and safety requirements applicable whilst in attendance at the skin penetration business.
- Conduct the inspection with or without the presence of the person authorised to represent the business.
- Record all identified non-compliances with skin penetration legislation.
- Provide a written report to the business on all outcomes from the inspection.
- Answer any questions from the business relating to the report or other related skin penetration matters.
- Be courteous and fair throughout the inspection.
- Exercise discretion when required in all of the above matters.

### 9.2 Re-Inspection

Council will undertake a re-inspection (where required) to enforce compliance with skin penetration legislation. A re-inspection will be undertaken for all non-compliances with skin penetration legislation where the risk is considered greater than low and the non-compliance cannot be immediately rectified.

### 9.3 Enforcement

#### 9.3.1 Verbal Warnings

Council's Environmental Health Officers may issue verbal warnings for non-compliances with skin penetration legislation where the risk of the non-compliance is considered low or can be immediately rectified.

#### 9.3.2 Written Warnings

Council may issue a written warning (letter) for non-compliances with skin penetration legislation where the risk of the non-compliance is considered low, is the first offence and not an immediate risk or greater to public health.

### 9.3.3 Local Government Order

An Order under section 124 of the Local Government Act 1993 may be issued for non compliance with the prescribed requirements listed under Schedule 2 of the Local Government (General) Regulation 2005 where prior warning has been given and/or the non compliance is considered to pose a moderate risk to public health.

### 9.3.4 Penalty Infringement Notices

Council may issue a Penalty Infringement Notice at any time under the Public Health (Skin Penetration) Regulation 2000. In determining whether to issue a Penalty Infringement Notice, Council will consider the level of offence and circumstances surrounding the offence.

### 9.3.5 Prosecution

Council may undertake prosecution for repeated non-compliances with skin penetration legislation or where a serious non-compliance has occurred.

## 10 Urgent Skin Penetration Safety Response and Complaint Management

### 10.1 Investigation of urgent skin penetration complaints

It is an unfortunate reality that emergencies either deliberate or accidental, can seriously threaten the safety of the community. They require an immediate on-the-ground response.

The unconditional availability of all regulatory personnel to address such urgent incidents is critical to protecting the public. In most cases such emergencies will be covered by Commonwealth and State emergency management plans.

Council will be available to assist in any urgent public health incidents relating to skin penetration procedures

### 10.2 General Skin Penetration Complaints

Council will investigate general complaints about skin penetration businesses in a timely manner to control further risk to public health.

Council and NSW Health have a close working relationship. All complaints received by Council will be assessed and where appropriate, NSW Health will be notified.

## 11 Perceived Conflicts of Interest

A conflict of interest refers to situations where a conflict arises between public duty and private interest, which could influence the performance of official duties and responsibilities. Such conflict generally involves opposing principles or incompatible wishes or needs.

Where an Environmental Health Officer believes a potential conflict of interest has arisen in relation to the regulation of a skin penetration business, the potential conflict must be acknowledged and the Manager Environmental Health and Building Services advised. Where the conflict of interest cannot be resolved, Council may seek assistance from NSW Health.

Council's Code of Conduct should be referred to when assessing a potential conflict of interest.

## 12 Acceptance of Gifts

Any token or gifts of value offered to Environmental Health Officers are to be handled in accordance with Council's Code of Conduct.

## 13 Registration of Skin Penetration Businesses and Council's Skin Penetration Business Register

### 13.1 Registration of Skin Penetration Businesses

Under Part 4 of the NSW Public Health (Skin Penetration) Regulation 2000, all skin penetration businesses must notify Council of their details prior to business. Once notified, Council will register the business on Council's Skin Penetration Business Register. It is the responsibility of the business proprietor to ensure that any changes to the original registration are advised to Council within seven (7) days of the change.

### 13.2 Council's Skin Penetration Business Register

Council's Skin Penetration Business Register is powered by Authority. All details provided by the skin penetration business as part of their registration are entered into Council's Skin Penetration Business Register and updated as required.

All details from business inspection activities will be entered into the register. The register will be used to schedule inspections and track any actions required.

The register will store all of Council's information on skin penetration surveillance and will be used to generate reports where required.

#### 13.2.1 Integrity of Information

Accuracy of information kept in Council's Skin Penetration Business Register is imperative and all persons accessing the register will be responsible for ensuring the information remains accurate.

#### 13.2.2 Data Entry

Council's Environmental Health Officers are responsible for entering all information relating to inspection activities and business registrations.

It is critical that all information is entered and a tracking item initiated for each action taken. Failure to do so will result in inaccuracies when reporting.

#### 13.2.3 Privacy

All information entered into and obtained from Council's Skin Penetration Business Register is confidential and information must be handled in accordance with Council's Code of Conduct.

## 14 Education

Council aims to provide a detailed and diverse education program as part of its Skin Penetration Surveillance Strategy.

Council's environmental health unit will aim to provide ongoing updates on the website, as well as verbal and written education where required to ensure all skin penetration businesses have access to the latest information available.

### 14.1 Methods of Education for Skin Penetration Businesses

#### 14.1.1 Website and Fact Sheets - Online

Council's website has been designed to provide a 'one stop information shop' for skin penetration businesses. The website includes information and details in relation to Council's Skin Penetration Surveillance Strategy, relevant codes and policies, relevant forms, fact sheets and new business requirements.

Council's website will be updated regularly and the aim is to grow the website to a point where it is the central information area to be used by skin penetration operators and the like.

### 14.1.2 Verbal and Written Communication

Council's environmental health officers are available to discuss any issues with skin penetration proprietors and can be readily accessed by phone, email or approached during inspection.

Council's inspection routine aims to not only provide enforcement of legislation but also an educative tool to increase knowledge amongst skin penetration operators.

Council will also aim to provide written information to skin penetration businesses as the need arises.

### 14.1.3 Education of General Public

Council will endeavour to promote its Skin Penetration Surveillance Strategy through its website and local media. Council may also provide statistical reporting to the public where appropriate.

The information gathered through inspection and complaints will remain confidential, however Council may publicise overall statistics which do not identify specific businesses.

### 14.1.4 Seminars

Council aims to provide annual skin penetration seminars aimed at presenting local skin penetration business owners with the opportunity to refresh their skills and knowledge in the skin penetration industry and advise them of any changes in legislative requirements or Council procedures. Further, the seminars will enable local business operators to meet and become familiar with Council's Environmental Health Officers whilst providing the opportunity to ask any questions or concerns they may have in a non threatening environment.

Seminars will be held at the discretion of Council.

## 15 Communication

Communication is a critical aspect of achieving public health outcomes. Council is required to effectively communicate with:

- NSW Health
- Other Councils
- Skin Penetration Businesses
- General Public

### 15.1 Methods of Communication

There are a variety of methods Council will use to communicate with the above-mentioned sectors:

- Telephone
- Email
- Face to Face
- Written Correspondence
- Council's Website
- Media

### 15.2 Communication with NSW Health

Effective communication between Council and NSW Health is necessary to maintain public health. Council may request information or assistance from NSW Health at times and conversely NSW Health may seek assistance or information from Council. Council will cooperate where possible with such requests.

### 15.3 Communication with other Council's

Council will assist other Councils where requested in providing information and assistance. Council will also communicate with other Councils where a skin penetration matter spans across Local Government Areas.

### 15.4 Communication with Skin Penetration Businesses

Open and honest communication with local skin penetration businesses is vital in maintaining public health. Council will remain open and honest with skin penetration businesses and provide assistance when requested. Council will ensure that skin penetration businesses are made aware of changes to legislation, news/initiatives or any change that may impact local businesses.

### 15.5 Communication with general public

Council will provide public health education and information to the general public when requested or when necessary. Council will remain attentive to complaints about skin penetration businesses and communicate with the complainant as to the progress of their complaint.

## 16 Training, appointment and competency of Environmental Health Officers

### 16.1 Appointment of Environmental Health Officers

Environmental Health Officers are appointed by Council under the Public Health Act 1991 for the purpose of carrying out duties prescribed in the Act.

### 16.2 Powers of Environmental Health Officers

An environmental health officer who believes on reasonable grounds that premises are used for the carrying on of skin penetration procedures may enter the premises and do any one or more of the following on those premises:

- inspect the premises,
- make inquiries of any person found on the premises,
- examine, inspect or test any apparatus, equipment or works,
- take and remove samples of any substance or other thing,
- require the samples referred to in paragraph (d) to be taken and given to the environmental health officer or another person or to the Director-General,
- take such photographs, films and audio, video and other recordings as the environmental health officer considers necessary,
- require records to be produced for inspection,
- examine, inspect and copy any records,
- make such other examinations, inquiries and tests as the environmental health officer considers necessary.

### 16.3 Competency and Training of Environmental Health Officers

Council's environmental health officers hold tertiary qualifications in health related disciplines. Officers regularly attend specialist courses and briefings to make sure their skills and knowledge are at the forefront of public health best practice.