

MODEL BYELAWS (WALES)

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, made by *insert Council name* in pursuance of sections 14(7) or 15(7) or both of the Act.

1) Interpretation

- (i) In these byelaws, unless the context otherwise requires—

“the Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“animal” means any reptile, mammal, and all other living creatures belonging to the animal kingdom;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe,

(b) the upper flat cartilage of the ear, and/or

(c) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

- (ii) The Interpretation Act 1978 applies to the interpretation of these byelaws as it applies to the interpretation of an Act of Parliament.

Cleanliness of premises and fittings

- 2)** For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor must ensure that—
- (i) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (ii) any waste material, or other litter arising from treatment must be placed immediately after use in an appropriate waste receptacle with a pedal operated lid and be handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
 - (iii) any needle, razor or other sharp item used in treatment is disposed of in a sharps container that is kept out of reach of clients and the general public in accordance with relevant legislation and guidance as advised by the local authority;
 - (iv) any furniture or fitting in the premises is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (v) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is cleaned and disinfected—
 - (a) immediately after use; and
 - (b) at the end of each working day.
 - (vi) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for every client;
 - (vii) no eating or drinking is permitted in the treatment area and a notice or notices reading “No Eating or Drinking” is prominently displayed there;
 - (viii) animals are prohibited from the premises except for animals used by the sight and/or hearing impaired.
- 3)**
- (i) Subject to Byelaw 3(ii), where premises are registered under sections 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act, a proprietor must ensure that treatment is given in a treatment area used solely for giving treatment;
 - (ii) Byelaw 3(i) does not apply if the only treatment to be given in such premises is the piercing of the lobe or the upper flat cartilage of the ear using a hygienic piercing instrument.
- 4)**
- (i) Subject to Byelaw 4(ii), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act, a proprietor must ensure that the floor of the treatment area is provided with a smooth impervious surface;
 - (ii) Byelaw 4(i) does not apply if the only treatment to be given in such premises is
 - (a) the piercing of the lobe or the upper flat cartilage of the ear using a hygienic piercing instrument; and/or
 - (b) electrolysis.

Cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment

- 5)** For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment an operator must ensure that—
- (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—
 - (a) is clean and in good repair and, so far as is appropriate, is sterile;
 - (b) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.
 - (ii) any needle, razor or other sharp item used in treatment is single-use and disposable;
 - (iii) any single-use needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;
 - (iv) only disposable single-use safety razors are used;
 - (v) if petroleum jelly or lubricating gel is to be placed on a clients skin, enough for one client only should be removed from the stock container with a clean spatula, and placed in a container that is either disposed of at the end of each treatment or is cleaned and sterilized before re-use;
 - (vi) elastic bands or plastic bags used on tattoo machines are disposed of after every client;
 - (vii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
 - (viii) for the purposes of tattooing or semi-permanent skin-colouring, only sterile inert pigment dispensed into single use pots or pre-packed in single use vials is used;
 - (ix) any container used to hold dye for tattooing or semi-permanent skin-colouring is used for only one client and disposed of together with any unused pigment at the end of each treatment.
- 6)** For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment a proprietor must provide—
- (i) adequate facilities and equipment for—
 - (a) cleansing and disinfection, including a general purpose sink with an adequate and constant supply of hot and cold running water on the premises separate from the wash hand basin required under Byelaw 8(i). This general purpose sink should be located out of the treatment area wherever possible; and

- (b) sterilisation, unless only pre-sterilised items are used. All sterilisation equipment must be serviced and maintained at appropriate intervals and periodically tested by the operator to ensure its efficient operation. Records of maintenance, servicing, testing and operating cycles must be retained at the premises until the date falling six months after the equipment is destroyed or disposed of.
- (ii) sufficient and safe gas points and electrical socket outlets;
- (iii) clean and suitable storage which avoids contamination of the articles, needles, instruments and equipment mentioned in Byelaw 5(i), (ii), (iii), (iv), (v), (vi), (vii) (viii) and (ix).

Cleanliness of operators

- 7) For the purpose of securing the cleanliness of operators, a proprietor must ensure that an operator—
 - (i) is instructed in appropriate hygienic hand decontamination techniques and washes their hands immediately before carrying out a treatment on each client;
 - (ii) keeps his/her hands and nails clean and his/her nails short and free from nail varnish, nail decoration or any form of nail covering;
 - (iii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
 - (iv) wears disposable, well fitting, surgical gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in Byelaw 10;
 - (v) wears a gown, wrap or protective clothing that is clean and washable and, so far as is appropriate, is sterile, or alternatively a disposable covering that has not previously been used in connection with another client;
 - (vi) does not smoke or consume food or drink in the treatment area.
- 8) Subject to Byelaw 9, for the purpose of securing the cleanliness of operators a proprietor must provide—
 - (i) suitable and sufficient wash hand basins with non hand operated taps appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, liquid soap and paper towels stored in a wall mounted dispenser next to the wash hand basin. Hand washing instructions should be clearly displayed at such basins;
 - (ii) suitable and sufficient sanitary accommodation for operators.
- 9) Where the only treatment an operator carries out is the piercing of the lobe or the upper flat cartilage of the ear using a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the wash hand basins the proprietor provides need not be for the sole use of the operator.

- 10) A proprietor must ensure the activity of acupuncture is only carried out by an operator who has washed their hands immediately before carrying out the activity of acupuncture on each client. Where an operator gives acupuncture a proprietor must ensure that the operator wears disposable, well fitting, surgical gloves that have not previously been used with another client where—
- (i) the client is bleeding or has an open lesion on an exposed part of his/her body; or
 - (ii) the client is known to be infected with a blood-borne virus; or
 - (iii) the operator has an open lesion on his/her hand; or
 - (iv) the operator is handling items that may be contaminated with blood or other body fluids.
- 11) A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in Byelaws 5(i) and 7(i).
- 12) The byelaws relating to *state subject matter* that were made by *insert name* on the *insert date* and were confirmed by *insert name of confirmation authority* on *insert date* are revoked.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are confirmed by the Welsh Ministers under section 236 of the Local Government Act 1972

on _____ and comes into operation on the

Signed: *(nb: leave a space for the insertion of official's name and job title here)*

under authority of the Minister for Health and Social Services, one of the Welsh Ministers.

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors must take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person must cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) will be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It is a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in Byelaw 1(i) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

The references in Byelaw 1(i) in the definition of “premises” to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) do not apply to acupuncture.

The requirement in Byelaw 3 that treatment is given in a treatment area used solely for giving treatment applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to the piercing of the lobe or the upper flat cartilage of the ear using a hygienic piercing instrument.

The requirement in Byelaw 4 that the floor of the treatment area be provided with a smooth impervious surface applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture, piercing of the lobe or the upper flat cartilage of the ear using a hygienic piercing instrument or electrolysis.

The requirement relating to elastic bands and plastic bags in Byelaw 5(vi) applies to tattooing.

The requirement relating jewellery in Byelaw 5(vii) applies to cosmetic piercing.

The requirements relating to dye or a container used to hold dye used for treatment in Byelaw 5(viii) and (ix) apply to tattooing and semi-permanent skin-colouring.

The requirement in Byelaw 7(iv) that an operator wears disposable well fitting, surgical gloves that have not previously been used with another client does not apply to acupuncture otherwise than in the circumstances described in Byelaw 10.

The provisions of Byelaw 9 in relation to washing facilities apply to the piercing of the lobe or the upper flat cartilage of the ear using a hygienic piercing instrument.

*The byelaws do not apply to (i) tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis treatment carried out by or under the supervision of a **medical practitioner (section 15(8) of the Act)** or (ii) acupuncture carried out by or under the supervision of a **medical practitioner or a dentist (section 14(8) of the Act)**.*

Local authorities may find it helpful to have regard to the Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) Local Authority Circulars:

76/2: *Enforcement of skin piercing Activities* (April 2005) – <http://www.hse.gov.uk/lau/lacs/76-2app.htm>

14/1: *Micro-pigmentation, semi-permanent tattooing and semi-permanent make-up* (August 2006) <http://www.hse.gov.uk/lau/lacs/14-1.htm>

These contain comprehensive guidance on issues such as infection control, waste disposal and aftercare advice - [http://www.hse.gov.uk/lau/lacs/14-1.htm#Cleaning and disinfection](http://www.hse.gov.uk/lau/lacs/14-1.htm#Cleaning_and_disinfection)